

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation      )  
Against:                                )  
   )  
   )  
   )  
**FRANK D. GILMAN, M.D.**      )      Case No. 800-2016-022170  
   )  
   )  
Physician's and Surgeon's      )  
Certificate No. G58692            )  
   )  
   )  
Respondent                        )  
   )  
\_\_\_\_\_

**DECISION**

The attached Stipulated Surrender of License and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on July 4, 2019.

IT IS SO ORDERED April 12, 2019.

MEDICAL BOARD OF CALIFORNIA

By:   
Kimberly Kirchmeyer  
Executive Director

1 XAVIER BECERRA  
2 Attorney General of California  
3 MATTHEW M. DAVIS  
4 Supervising Deputy Attorney General  
5 MARTIN W. HAGAN  
6 Deputy Attorney General  
7 State Bar No. 155553  
600 West Broadway, Suite 1800  
5 San Diego, CA 92101  
P.O. Box 85266  
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**8** || *Attorneys for Complainant*

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

## 14 In the Matter of the Accusation Against:

Case No. 800-2016-022170

**FRANK D. GILMAN, M.D.**  
**2001 4th Avenue**  
**San Diego, CA 92101-2303**

OAH No. 2018120394

17 Physician's and Surgeon's Certificate No.  
G58692

**STIPULATED SURRENDER OF LICENSE  
AND DISCIPLINARY ORDER**

**Respondent.**

20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
21 entitled proceedings that the following matters are true:

## PARTIES

23       1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
24 of California (Board). She brought this action solely in her official capacity and is represented in  
25 this matter by Xavier Becerra, Attorney General of the State of California, by Martin W. Hagan,  
26 Deputy Attorney General.

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2. Respondent Frank D. Gilman, M.D. (Respondent) is represented in this proceeding by Scott D. Buchholz, Esq., of Dummit, Buchholz & Trapp, whose address is 101 W. Broadway, Suite 1400, San Diego, CA 92101.

3. On or about September 22, 1986, the Board issued Physician's and Surgeon's Certificate No. G58692 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 800-2016-022170, and will expire on April 30, 2020, unless renewed.

## JURISDICTION

4. On October 2, 2018, Accusation No. 800-2016-022170 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on October 2, 2018. Respondent timely filed his Notice of Defense contesting the Accusation. A true and correct copy of Accusation No. 800-2016-022170 is attached hereto as Exhibit A and incorporated herein by reference as if fully set forth herein.

## **ADVISEMENT AND WAIVERS**

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 800-2016-022170. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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## CULPABILITY

2       8. Respondent agrees that, at an administrative hearing, Complainant could establish a  
3 *prima facie* case with respect to the charges and allegations in Accusation No. 800-2016-022170  
4 and that he has thereby subjected his Physician's and Surgeon's Certificate No. G58692 to  
5 disciplinary action. Respondent further agrees to be bound by the Board's imposition of  
6 discipline as set forth in the Disciplinary Order below. Respondent hereby surrenders his  
7 Physician's and Surgeon's Certificate No. G58692 for the Board's formal acceptance with an  
8 agreed upon effective date of July 4, 2019.

9       9. Respondent agrees that his Physician's and Surgeon's Certificate No. G58692 is  
10 subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth  
11 in the Disciplinary Order below.

12        10. Respondent further agrees that if he ever petitions for reinstatement of his Physician's  
13 and Surgeon's Certificate No. G58692, or petitions to revoke probation or if an accusation is ever  
14 filed against him before the Medical Board of California, all of the charges and allegations  
15 contained in Accusation No. 800-2016-022170 shall be deemed true, correct, and fully admitted  
16 by Respondent for purposes of any such proceeding or any other licensing proceeding involving  
17 Respondent in the State of California or elsewhere.

18        11. Respondent understands that by signing this stipulation he enables the Executive  
19 Director of the Board to issue an order, on behalf of the Board, accepting the surrender of his  
20 Physician's and Surgeon's Certificate No. G58692 without further notice to, or opportunity to be  
21 heard by, Respondent.

## CONTINGENCY

23       12. Business and Professions Code section 2224, subdivision (b), provides, in pertinent  
24 part, that the Medical Board “shall delegate to its executive director the authority to adopt a . . .  
25 stipulation for surrender of a license.”

26        13. This Stipulated Surrender of License and Disciplinary Order shall be subject to  
27 approval of the Executive Director on behalf of the Medical Board. The parties agree that this  
28 Stipulated Surrender of License and Disciplinary Order shall be submitted to the Executive

1 Director for her consideration in the above-entitled matter and, further, that the Executive  
2 Director shall have a reasonable period of time in which to consider and act on this Stipulated  
3 Surrender of License and Disciplinary Order after receiving it. By signing this stipulation,  
4 Respondent fully understands and agrees that he may not withdraw his agreement or seek to  
5 rescind this stipulation prior to the time the Executive Director, on behalf of the Medical Board,  
6 considers and acts upon it.

7       14. The parties agree that this Stipulated Surrender of License and Disciplinary Order  
8 shall be null and void and not binding upon the parties unless approved and adopted by the  
9 Executive Director on behalf of the Board, except for this paragraph, which shall remain in full  
10 force and effect. Respondent fully understands and agrees that in deciding whether or not to  
11 approve and adopt this Stipulated Surrender of License and Disciplinary Order, the Executive  
12 Director and/or the Board may receive oral and written communications from its staff and/or the  
13 Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the  
14 Executive Director, the Board, any member thereof, and/or any other person from future  
15 participation in this or any other matter affecting or involving Respondent. In the event that the  
16 Executive Director on behalf of the Board does not, in her discretion, approve and adopt this  
17 Stipulated Surrender of License and Disciplinary Order, with the exception of this paragraph, it  
18 shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied  
19 upon or introduced in any disciplinary action by either party hereto. Respondent further agrees  
20 that should this Stipulated Surrender of License and Disciplinary Order be rejected for any reason  
21 by the Executive Director on behalf of the Board, Respondent will assert no claim that the  
22 Executive Director, the Board, or any member thereof, was prejudiced by its/his/her review,  
23 discussion and/or consideration of this Stipulated Surrender of License and Disciplinary Order or  
24 of any matter or matters related hereto.

## **ADDITIONAL PROVISIONS**

26       15. This Stipulated Surrender of License and Disciplinary Order is intended by the parties  
27 herein to be an integrated writing representing the complete, final and exclusive embodiment of  
28 the agreements of the parties in the above-entitled matter.

16. The parties agree that copies of this Stipulated Surrender of License and Disciplinary Order, including copies of the signatures of the parties, may be used in lieu of original documents and signatures and, further, that such copies shall have the same force and effect as originals.

17. In consideration of the foregoing admissions and stipulations, the parties agree the Executive Director of the Medical Board may, without further notice to or opportunity to be heard by Respondent, issue and enter the following Disciplinary Order on behalf of the Board:

## ORDER

**IT IS HEREBY ORDERED** that Physician's and Surgeon's Certificate No. G58692, issued to Respondent Frank D. Gilman, M.D., is surrendered and accepted by the Medical Board of California.

1. The surrender of Respondent's Physician's and Surgeon's Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Medical Board of California.

2. Respondent shall lose all rights and privileges as a Physician and Surgeon in California as of the effective date of the Board's Decision and Order which shall be on July 4, 2019.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. 800-2016-022170 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

5. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation No. 800-2016-022170 shall

1 be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of  
2 Issues or any other proceeding seeking to deny or restrict licensure

3 **ACCEPTANCE**

4 I have carefully read the above Stipulated Surrender and Disciplinary Order and have fully  
5 discussed it with my attorney, Scott D. Buchholz, Esq. I understand the stipulation and the effect  
6 it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Surrender  
7 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
8 Decision and Order of the Medical Board of California.

9  
10 DATED: 4/3/2019

  
FRANK D. GILMAN, M.D.  
*Respondent*

11  
12 I have read and fully discussed with Respondent Frank D. Gilman, M.D., the terms and  
13 conditions and other matters contained in the above Stipulated Surrender and Disciplinary Order.  
14 I approve its form and content.

15 DATED: 4/3/19

  
SCOTT D. BUCHHOLZ, ESQ. TARYN PEREZ, ESQ.  
*Attorney for Respondent*

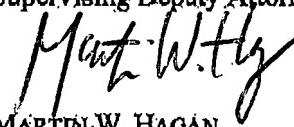
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17 **ENDORSEMENT**

18 The foregoing Stipulated Surrender and Disciplinary Order is hereby respectfully submitted  
19 for consideration by the Medical Board of California.

20 Dated: 4/3/2019

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
MATTHEW M. DAVIS  
Supervising Deputy Attorney General

  
MARTIN W. HAGAN  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 800-2016-022170**

1 XAVIER BECERRA  
2 Attorney General of California  
3 MATTHEW M. DAVIS  
Supervising Deputy Attorney General  
3 MARTIN W. HAGAN  
Deputy Attorney General  
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FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO October 2 2018  
BY: JODY WRIGHT ANALYST

8 *Attorneys for Complainant*

10 BEFORE THE  
11 MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
12 STATE OF CALIFORNIA

13 In the Matter of the Accusation Against:

Case No. 800-2016-022170

14 FRANK GILMAN, M.D.  
2001 4th Avenue  
15 San Diego, California 92101

ACCUSATION

16 Physician's and Surgeon's Certificate  
17 No. G58692 ,

18 Respondent.

19 Complainant alleges:

20 PARTIES

21 1. Kimberly Kirchmeyer (complainant) brings this Accusation solely in her official  
22 capacity as the Executive Director of the Medical Board of California, Department of Consumer  
23 Affairs (Board).

24 2. On or about September 22, 1986, the Board issued Physician's and Surgeon's  
25 Certificate No. G58692 to Frank Gilman, M.D. (respondent). The Physician's and Surgeon's  
26 Certificate was in full force and effect at all times relevant to the charges and allegations brought  
27 herein and will expire on April 30, 2020, unless renewed.

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## **JURISDICTION**

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

**4. Section 2227 of the Code states:**

“(a) A licensee whose matter has been heard by an administrative law judge

of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

"(1) Have his or her license revoked upon order of the board.

"(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

“(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

“(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

“(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

“(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical review or advisory conferences, professional competency examinations, continuing education activities, and cost reimbursement associated therewith that are agreed to with the board and successfully completed by the licensee, or other matters made confidential or privileged by existing law, is deemed public, and shall be made available to the public by the board pursuant to Section 803.1.”

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1       5. Section 2234 of the Code, states:

2            “The board shall take action against any licensee who is charged with unprofessional  
3            conduct. In addition to other provisions of this article, unprofessional conduct includes, but  
4            is not limited to, the following:

5            “...

6            “(b) Gross negligence.

7            “(c) Repeated negligent acts. To be repeated, there must be two or more negligent  
8            acts or omissions. An initial negligent act or omission followed by a separate and distinct  
9            departure from the applicable standard of care shall constitute repeated negligent acts.

10          “(1) An initial negligent diagnosis followed by an act or omission medically  
11          appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

12          “(2) When the standard of care requires a change in the diagnosis, act, or  
13          omission that constitutes the negligent act described in paragraph (1), including, but  
14          not limited to, a reevaluation of the diagnosis or a change in treatment, and the  
15          licensee's conduct departs from the applicable standard of care, each departure  
16          constitutes a separate and distinct breach of the standard of care.

17          “(d) Incompetence.

18          “...”

19        6. Section 2266 of the Code states:

20          “The failure of a physician and surgeon to maintain adequate and accurate  
21          records relating to the provision of services to their patients constitutes  
22          unprofessional conduct.”

23        7. Section 725 of the Code states:

24          “(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or  
25          administering of drugs or treatment, repeated acts of clearly excessive use of  
26          diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or  
27          treatment facilities as determined by the standard of the community of licensees is  
28          unprofessional conduct for a physician and surgeon, dentist, podiatrist,

1 psychologist, physical therapist, chiropractor, optometrist, speech-language  
2 pathologist, or audiologist.

3       “(b) Any person who engages in repeated acts of clearly excessive  
4 prescribing or administering of drugs or treatment is guilty of a misdemeanor and  
5 shall be punished by a fine of not less than one hundred dollars (\$100) nor more  
6 than six hundred dollars (\$600), or by imprisonment for a term of not less than 60  
7 days nor more than 180 days, or by both that fine and imprisonment.

8       “(c) A practitioner who has a medical basis for prescribing, furnishing,  
9 dispensing, or administering dangerous drugs or prescription controlled substances  
10 shall not be subject to disciplinary action or prosecution under this section.

11       “(d) No physician and surgeon shall be subject to disciplinary action pursuant  
12 to this section for treating intractable pain in compliance with Section 2241.5.”

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## **FIRST CAUSE FOR DISCIPLINE**

### **(Gross Negligence)**

8. Respondent is subject to disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (b), of the Code, in that he committed gross negligence in his care and treatment of patients A, B, C, and D, as more particularly alleged hereinafter:

### **PATIENT A**

9. As of at least February 23, 2007, respondent was treating patient A,<sup>1</sup> a then-60-year-old female with a documented history of, among other things, neck pain, major depressive disorder, hypothyroidism, gastroesophageal reflux disease (GERD), and musculoskeletal issues. Respondent treated patient A approximately three more times from February 24, 2007, through the end of 2008.

10. During the period of on or about January 1, 2009, to December 31, 2009, respondent had five (5) office visits with patient A.<sup>2</sup> According to Respondent's progress notes, the visits took place on March 31, May 7, June 10, June 29 and October 21, 2009. Patient A's problems during this time included, but were not limited to, chronic pain, chest pain, fibromyalgia, hypothyroidism, and GERD. Patient A was also being followed by her psychiatrist, Dr. C.M., for mental health issues. According to the CURES report for patient A, the following prescriptions for controlled substances were filled for patient A during 2012:

Filled	Drug Name	Strength	Quantity	Prescriber
02-04-2009	Oxycodone/APAP <sup>3</sup>	10/325 mg	360	Dr. C.M.

<sup>1</sup> Patient A is being used in place of the patient's name or initials to maintain patient confidentiality. The other patients in this Accusation are referred to patients B, C, and D, to also maintain patient confidentiality.

<sup>2</sup> Conduct occurring more than seven (7) years from the filing date of this Accusation is for informational purposes only and is not alleged as a basis for disciplinary action.

<sup>3</sup> Oxycodone/APAP (Percocet®), an opioid analgesic, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated, it is used for the management of moderate to moderately severe pain. The Drug Enforcement Administration has identified oxycodone, as a drug of abuse. (Drugs of Abuse, A DEA Resource Guide (2011 Edition), at p. 41.) The Federal Drug Administration has issued a (continued...)

(continued...)

Filled	Drug Name	Strength	Quantity	Prescriber
02-23-2009	Temazepam <sup>4</sup>	30 mg	90	Dr. C.M.
04-10-2009	Lorazepam <sup>5</sup>	2 mg	90	Dr. C.M.
06-10-2009	Provigil <sup>6</sup>	200 mg	30	Respondent
06-11-2009	Temazepam	30 mg	90	Dr. C.M.
06-17-2009	Lorazepam	2 mg	90	Dr. C.M.
07-08-2009	Diazepam <sup>7</sup>	10 mg	1	Other
07-29-2009	Provigil	200 mg	90	Dr. C.M.
07-30-2009	Oxycodone <sup>8</sup>	5 mg	900	Dr. C.M.

(...continued)

black box warning for Percocet® which warns about, among other things, addiction, abuse and misuse, and the possibility of "life-threatening respiratory distress."

<sup>4</sup> Temazepam (Restoril®), a benzodiazepine, is a centrally acting hypnotic-sedative that is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated, it is used to treat seizure disorders and panic disorders. Concomitant use of Restoril® with opioids "may result in profound sedation, respiratory depression, coma, and death." The Drug Enforcement Administration (DEA) has identified benzodiazepines, such as Restoril®, as drug of abuse. (Drugs of Abuse, DEA Resource Guide (2011 Edition), at p. 53.)

<sup>5</sup> Lorazepam (Ativan®), a benzodiazepine, is a centrally acting hypnotic-sedative that is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated, it is used for the management of anxiety disorders or for the short term relief of anxiety or anxiety associated with depressive symptoms. Concomitant use of Ativan® with opioids "may result in profound sedation, respiratory depression, coma, and death." The DEA has identified benzodiazepines, such as Ativan®, as a drug of abuse. (Drugs of Abuse, DEA Resource Guide (2011 Edition), at p. 53.)

<sup>6</sup> Provigil® (modafinil), is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated it is used to improve wakefulness in adult patients with excessive sleepiness associated with narcolepsy, obstructive sleep apnea, or shift work disorder.

<sup>7</sup> Diazepam (Valium®), a benzodiazepine, is a centrally acting hypnotic-sedative that is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated, it is used for the management of anxiety disorders or for short-term relief of anxiety. Concomitant use of Valium® with opioids "may result in profound sedation, respiratory depression, coma, and death." The DEA has identified benzodiazepines, such as Valium®, as a drug of abuse. (Drugs of Abuse, DEA Resource Guide (2011 Edition), at p. 53.)

Filled	Drug Name	Strength	Quantity	Prescriber
08-31-2009	Temazepam	30 mg	90	Dr. C.M.
09-14-2009	Provigil	200 mg	180	Dr. C.M.
09-14-2009	Lorazepam	2 mg	90	Dr. C.M.
10-28-2009	Roxicet <sup>9</sup>	5/325 mg	900	Dr. C.M.
11-13-2009	Temazepam	30 mg	90	Dr. C.M.
11-20-2009	Lorazepam	2 mg	90	Dr. C.M.
11-23-2009	Oxycodone	5 mg	200	Dr. C.M.
12-30-2009	Alprazolam <sup>10</sup>	1 mg	180	Dr. C.M.

11. During the period of on or about January 1, 2010, to December 31, 2010, respondent  
 12 had seven (7) office visits with patient A. According to Respondent's progress notes, the visits  
 13 took place on February 18, May 19, September 2, October 4, October 14, and November 16,  
 14 2010. Patient A's problems during this time included, but were not limited to, chronic pain,

15 (...continued)

16       <sup>8</sup> Oxycodone HCL (OxyContin®) is a Schedule II controlled substances pursuant to  
 17 Health and Safety Code section 11055, subdivision (b), and a dangerous drug pursuant to  
 18 Business and Professions Code section 4022. When properly prescribed and indicated,  
 19 Oxycodone HCL is used for the management of pain severe enough to require daily, around-the-  
 20 clock, long term opioid treatment for which alternative treatment options are inadequate. The  
 21 DEA has identified oxycodone, as a drug of abuse. (Drugs of Abuse, A DEA Resource Guide  
 22 (2011 Edition), at p. 41.) The risk of respiratory depression and overdose is increased with the  
 23 concomitant use of benzodiazepines or when prescribed to patients with pre-existing respiratory  
 24 depression.

25       <sup>9</sup> Roxicet® (oxycodone and acetaminophen), an opioid analgesic, is a Schedule II  
 26 controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a  
 27 dangerous drug pursuant to Business and Professions Code section 4022. When properly  
 28 prescribed and indicated, it is used for the management of moderate to moderately severe pain.  
 The Drug Enforcement Administration has identified oxycodone, as a drug of abuse. (Drugs of  
 Abuse, A DEA Resource Guide (2011 Edition), at p. 41.) The Federal Drug Administration has  
 issued a black box warning for Percocet® which warns about, among other things, addiction,  
 abuse and misuse, and the possibility of "life-threatening respiratory distress."

25       <sup>10</sup> Alprazolam (Xanax®), a benzodiazepine, is a centrally acting hypnotic-sedative that is  
 26 a Schedule IV controlled substance pursuant to Health and Safety Code section 11057,  
 27 subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.  
 28 When properly prescribed and indicated, it is used for the management of anxiety disorders.  
 Concomitant use of Xanax® with opioids "may result in profound sedation, respiratory  
 depression, coma, and death." The DEA has identified benzodiazepines, such as Xanax®, as a  
 drug of abuse. (Drugs of Abuse, DEA Resource Guide (2011 Edition), at p. 53.)

1 hypertension (HTN), and depression. During 2010, patient A received electroconvulsive therapy  
2 (ECT) to treat severe depression and she was also followed by her psychiatrist, Dr. C.M.  
3 According to the CURES report for patient A, the following prescriptions for controlled  
4 substances were filled for patient A during 2010:

Filled	Drug Name	Strength	Quantity	Prescriber
01-23-2010	Nuvigil <sup>11</sup>	150 mg	30	Dr. C.M.
02-02-2010	Temazepam	30 mg	90	Dr. C.M.
02-23-2010	Oxycodone	5 mg	900	Dr. C.M.
05-11-2010	Oxycodone	5 mg	900	Dr. C.M.
05-11-2010	Provigil	100 mg	90	Dr. C.M.
05-26-2010	Temazepam	30 mg	90	Respondent
06-08-2010	OxyContin	10 mg	14	Dr. C.M.
06-15-2010	OxyContin	20 mg	63	Dr. C.M.
07-02-2010	Oxycodone	20 mg	360	Dr. C.M.
08-03-2010	Temazepam	30 mg	90	Respondent
09-02-2010	OxyContin	10 mg	60	Respondent
09-03-2010	Alprazolam	1 mg	180	Dr. C.M.
09-07-2010	OxyContin	20 mg	360	Dr. C.M.
10-11-2010	Oxycodone	5 mg	240	Respondent
10-14-2010	Temazepam	30 mg	30	Respondent
11-09-2010	Alprazolam	1 mg	180	Dr. C.M.
11-23-2010	Oxycodone	5 mg	720	Respondent
11-23-2010	OxyContin	20 mg	60	Respondent

11 Nuvigil® (armodafinil), is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated it is used to improve wakefulness in adult patients with excessive sleepiness associated with narcolepsy, obstructive sleep apnea, or shift work disorder.

Filled	Drug Name	Strength	Quantity	Prescriber
12-17-2010	Temazepam	30 mg	90	Respondent

12. During the period of on or about January 1, 2011, to December 31, 2011, respondent  
 4 had five (5) office visits with patient A. According to respondent's progress notes, the visits took  
 5 place on January 5, March 2, May 4, July 11, and November 2, 2011. Patient A's problems  
 6 during this time included, but were not limited to, chronic pain, fibromyalgia, and depression. On  
 7 November 9, 2011, patient A filled a prescription for Oxycodone 5 mg (#720), the details of  
 8 which are not accurately documented in patient A's medical record and which respondent could  
 9 not explain when questioned about the prescription.<sup>12</sup> During this time, patient A was also  
 10 followed by, a new psychiatrist, Dr. C.C., for her mental health issues. According to the CURES  
 11 report for patient A, the following prescriptions for controlled substances were filled for patient A  
 12 during 2011:

Filled	Drug Name	Strength	Quantity	Prescriber
02-18-2011	Temazepam	30 mg	90	Respondent
03-09-2011	OxyContin	20 mg	60	Respondent
03-09-2011	Oxycodone	5 mg	720	Respondent
04-19-2011	Methylphenidate <sup>13</sup>	5 mg	60	Dr. C.C.
05-05-2011	Methylphenidate	10 mg	60	Dr. C.C.

20           <sup>12</sup> The progress note for the prior visit of November 2, 2011, indicates "Oxycodone HCL 5  
 21 MG Oral Tablet; 1-2 TABS Q4-6 HR PRN SEVERE PAIN; Rx." There is no indication of the  
 22 quantity that is being prescribed and respondent had difficulty explaining the large quantity of  
 23 oxycodone when asked at his interview before a Department of Consumer Affairs, Health Quality  
 24 Investigation Unit (HQIU) investigator regarding his care and treatment of patient A. Patient A  
 25 had previously filled prescriptions from respondent for oxycodone 5 mg (#720) on November 23,  
 26 2010, March 9, 2011, and May 9, 2011.

27           <sup>13</sup> Methylphenidate (Ritalin® and Methylin®), a central nervous system stimulant, is a  
 28 Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision  
 (d), and a dangerous drug pursuant to Business and Professions Code section 4022. When  
 29 properly prescribed and indicated, it is used to treat attention deficit hyperactivity disorder  
 (ADHD) and narcolepsy. According to the DEA, amphetamines, such as methylphenidate, are  
 30 considered a drug of abuse. "The effects of amphetamines and methamphetamine are similar to  
 31 cocaine, but their onset is slower and their duration is longer." (Drugs of Abuse – A DEA  
 32 Resource Guide (2011), at p. 44.)

Filled	Drug Name	Strength	Quantity	Prescriber
05-09-2011	Alprazolam	1 mg	90	Dr. C.C.
05-09-2011	Oxycodone	5 mg	720	Respondent
05-09-2011	OxyContin	20 mg	60	Respondent
05-11-2011	Methylin	10 mg	180	Dr. C.C.
06-01-2011	Temazepam	30 mg	30	Respondent
06-07-2011	Temazepam	30 mg	90	Respondent
06-23-2011	Methylin	20 mg	180	Dr. C.C.
07-15-2011	OxyContin	20 mg	60	Respondent
08-30-2011	Temazepam	30 mg	90	Respondent
09-29-2011	Methylphenidate	20 mg	180	Dr. C.C.
10-19-2011	Methylphenidate	20 mg	270	Dr. C.C.
11-09-2011	OxyContin	20 mg	60	Respondent
11-09-2011	Oxycodone	5 mg	720	Respondent
11-22-2011	Temazepam	30 mg	90	Respondent
12-02-2011	OxyContin	20 mg	60	Respondent

13. During the period of on or about January 1, 2012, to July 1, 2012, respondent had five  
 14 (5) office visits with patient A. According to respondent's progress notes, the visits took place on  
 15 January 5, March 2, May 4, July 11, and November 2, 2011. Patient A's problems during this  
 16 time included, but were not limited to, depression, chronic pain, fibromyalgia, hypothyroidism,  
 17 and opiate addiction (as noted in her psychiatric records). During this time, patient A continued  
 18 to be followed by Dr. C.C., for her mental health issues. On January 13, 2012, patient A was  
 19 admitted to Sharp Grossmont Behavioral Health after a suicide attempt.<sup>14</sup> After consultation, she  
 20

21  
 22  
 23  
 24  
 25  
 26       <sup>14</sup> According to one of the relevant medical records, "... [t]he patient was transferred here  
 27 from Sharp Memorial Medical floor for further stabilization and recent suicidality. When I first  
 28 contacted the patient I did an extensive psychiatric history note for treatment of refractory  
 depression. She has overdosed on 7 temazepam 30 mg tablets because she was 'very depressed.'  
 She states she had been thinking about it for weeks and wrote some sort of suicide note..."

1 underwent ECT therapy on January 18, January 20, and January 23, 2012. Patient A was  
2 discharged on January 24, 2012. On February 5, 2012, patient A's husband reported to  
3 respondent that patient A "took 6 temazepam tablets in suicide gesture," that she had been  
4 admitted for a mental health evaluation, and that she received three electroconvulsive therapy  
5 (ECT) procedures which improved her mood but "increased memory difficulty." On April 22,  
6 2012, patient A self-admitted to Sharp Grossmont Behavioral Health, with the recommendation  
7 of her treating psychiatrist, Dr. C.C., for severe depression and suicidal ideation. According to  
8 the relevant medical records, patient A was diagnosed as suffering from, among other things,  
9 major depressive disorder, recurrent, severe, without psychosis; chronic pain affecting  
10 psychological condition; hypothyroidism; and chronic low back pain with degenerative disk  
11 disease" and was noted to have a "history of opioid dependence over the last 5 to 6 years..." The  
12 treatment plan for Patient A's psychiatric care was additional ECT procedures, which had been  
13 tried in the past, because her psychiatric medications were no longer effective in treating her  
14 severe depression. Patient A underwent a series of ECT procedures on an outpatient and inpatient  
15 basis and was discharged in early May 2012, to be followed by her treating psychiatrist. Patient  
16 A's condition on discharge was documented as "stable, improved [and] [w]hile continuing to be  
17 quite depressed [patient A] was no longer with acute suicidal ideations." According to the  
18 CURES report for patient A, the following prescriptions for controlled substances were filled for  
19 patient A during 2012:

Filled	Drug Name	Strength	Quantity	Prescriber
02-22-2012	OxyContin	20 mg	60	Respondent
02-22-2012	Oxycodone	5 mg	240	Respondent
03-08-2012	Methylphenidate	30 mg	60	Respondent
04-05-2012	Methylphenidate	20 mg	270	Dr. C.C.
05-08-2012	OxyContin	20 mg	90	Respondent
05-23-2012	OxyContin	20 mg	90	Respondent
06-02-2012	Methylphenidate	20 mg	180	Dr. C.C.

Filled	Drug Name	Strength	Quantity	Prescriber
06-19-2012	Oxycodone	5 mg	90	Respondent
06-20-2012	OxyContin	20 mg	90	Respondent

4           14. On or about July 3, 2012, patient A was found dead at her home. Patient A's cause of  
 5 death was listed as "acute oxycodone, alprazolam, and temazepam intoxication" and the manner  
 6 of death was listed as suicide.<sup>15</sup>

7           15. Throughout his course of treatment of patient A, respondent failed to adequately  
 8 respond to warning signs indicating possible misuse, abuse and/or diversion of controlled  
 9 substances and did not take adequate risk screening measures to prevent the misuse, abuse and/or  
 10 the diversion of the controlled substances that he was prescribing. These warning signs included,  
 11 but were not limited to, overuse of controlled substances and possible diversion by patient A's  
 12 husband, who was also receiving controlled substances from respondent.<sup>16</sup>

13           16. Respondent committed gross negligence in his care and treatment of patient A which  
 14 included, but was not limited to, the following:

15           (a) Respondent repeatedly increased the risk of harm to patient A through,  
 16           among other things, his haphazard prescribing of controlled substances to  
 17           patient A;

18           ////

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19           20           <sup>15</sup> According the Autopsy Report, "Toxicological testing detected a markedly elevated  
 level of oxycodone. Additionally, 72 mg of oxycodone, which would be fifteen 5 mg oxycodone  
 21 pills, remained in her gastric contents, clearly indicating intentional overdose. Also, detected  
 were alprazolam and temazepam (and its metabolite, oxaizepam). No alcohol was detected. [¶]  
 22 Based on the autopsy findings and the circumstances surrounding the death, as currently  
 understood, the cause of death is acute oxycodone, alprazolam, and temazepam intoxication, and  
 23 the manner of death is suicide."

24           25           <sup>16</sup> During his interview before a HQIU investigator, respondent admitted that patient A  
 would vary her dose on occasion which was due, in part, to respondent's failure to have a clear,  
 rationale, and adequately documented treatment plan for the controlled substances that were being  
 prescribed to patient A. Respondent was also prescribing pain medications to patient A's  
 26 husband. During his interview, respondent was asked whether he was aware that one of patient  
 A's prescriptions had been filled on July 18, 2012, approximately two weeks after patient A had  
 27 died. Respondent indicated he was not aware of the prescription that was filled on July 18, 2012.  
 Respondent further admitted during his interview that he was not checking CURES at the time he  
 28 was treating patient A.

- (b) Respondent repeatedly prescribed controlled substances to patient A without discussing and/or documenting adequate informed consent which included, but was not limited to, the risks associated with treating chronic pain with opioids; the risks associated with the concomitant use of opioids, benzodiazepines, and other drug combinations; and the risks associated with prescribing opioids to patient A, who had a history of suicidal thoughts or actions;
  - (c) Respondent repeatedly failed to utilize risk screening measures to address possible misuse or diversion of controlled substances which included, but was not limited to, failing to check CURES, failing to utilize a pain management contract; failing to conduct urinalysis or other drug screening; failing to properly coordinate prescribing with other prescribers; and failing to utilize other possible risk screening measures; and
  - (d) Respondent repeatedly failed to maintain accurate and adequate medical records concerning his care and treatment of patient A which included, but was not limited to, failing to document adequate informed consent, failing to document sufficient and accurate information regarding the controlled substances being prescribed to enable, among other things, validation and continuity of care pertaining to the controlled substances that were being prescribed; failing to document the rationale for continuing opioid treatment with patient A after each of her suicide attempts; and failing to document a rationale and clear treatment plan for the controlled substances that were being prescribed to patient A.

## PATIENT B

26        17. According to respondent's progress notes, respondent first started treating patient B, a  
27        then-32-year old male, on or about May 16, 2011. Patient B's documented medical history at the  
28        time included chronic lumbar neuritis since high school, depression, hypertension, GERD, and

1 asthma. Patient B reported he was reluctant to have surgery. Current medications were Prevacid  
2 30 mg and Prozac 40 mg. At this visit, prescriptions for oxycodone HCL (OxyContin) 30 mg q  
3 12 (every 12 hours) and hydrocodone/APAP (Norco)<sup>17</sup> q.i.d (four a day) were refilled.

4 18. During the period of on or about May 17, 2011, to December 31, 2011, respondent  
5 had five (5) additional office visits with patient B. According to respondent's progress notes, the  
6 visits took place on June 3, June 24, July 11, October 11, and November 14, 2011. Patient B's  
7 problems during this time generally included, but were not limited to, alleged chronic pain,  
8 depression, elevated liver function test, and dyslipidemia. On June 24, 2011, patient B indicated  
9 that he was seeing a new psychiatrist, Dr. T.L., and was motivated to taper his dosage of  
10 oxycodone HCL (OxyContin), which was reduced to 40 mg q am (in the morning) and 30 mg q  
11 pm (in the evening) [morphine equivalency dose (MED)<sup>18</sup> of 105 mg/day] and was eventually  
12 switched to hydrocodone APAP (Norco) 10/325 mg (five per day) [MED of 50 mg/day] and then  
13 oxycodone/APAP (Percocet) 7.5/325 mg (up to 5 tablets per day) [MED of 56.25 mg/day].  
14 According to the CURES report for patient B, he filled multiple prescriptions during the  
15

16 <sup>17</sup> Hydrocodone/APAP (Vicodin®, Lortab® and Norco®) is a hydrocodone combination  
17 of hydrocodone bitartrate and acetaminophen which was formerly a Schedule III controlled  
18 substance pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous  
19 drug pursuant to Business and Professions Code section 4022. On August 22, 2014, the DEA  
20 published a final rule rescheduling hydrocodone combination products (HCPs) to schedule II of  
the Controlled Substances Act, which became effective October 6, 2014. Schedule II controlled  
21 substances are substances that have a currently accepted medical use in the United States, but also  
have a high potential for abuse, and the abuse of which may lead to severe psychological or  
22 physical dependence. When properly prescribed and indicated, it is used for the treatment of  
moderate to severe pain. In addition to the potential for psychological and physical dependence  
23 there is also the risk of acute liver failure which has resulted in a black box warning being issued  
by the Federal Drug Administration (FDA). The FDA black box warning provides that  
“Acetaminophen has been associated with cases of acute liver failure, at times resulting in liver  
transplant and death. Most of the cases of liver injury are associated with use of the  
acetaminophen at doses that exceed 4,000 milligrams (4 grams) per day, and often involve more  
than one acetaminophen containing product.”

24 <sup>18</sup> Morphine equivalency dose (MED) is a value assigned to opioids to represent their  
25 relative potencies. MED is determined by using an equivalency factor to calculate a dose of  
morphine that is equivalent to the prescribed opioid. Daily MED is the sum total of all opioids,  
26 with conversion factors applied, that are being taken within a 24-hour period, which is used to  
determine if a patient is at risk of addiction, respiratory depression, or other delirious effects  
27 associated with opioids. The process of converting opioid doses to an overall morphine  
equivalency dose can be accomplished by using a MED calculator or a morphine equivalency  
table, also known as opioid conversion chart.  
28

1 remainder of 2011 for, among other things, hydrocodone/APAP 10/325 mg (#240) [MED of 80  
2 mg/day], benzodiazepines (some prescribed by respondent and some by patient B's treating  
3 psychiatrist); and methylphenidate (Ritalin) prescribed by the treating psychiatrist.

4       19. During the period of on or about January 1, 2012, to December 31, 2012, respondent  
5 had one (1) office visit with patient B. According to respondent's progress note, the visit took  
6 place on June 6, 2012. Patient B's problems during this time generally included, but were not  
7 limited to, alleged chronic pain, depression, anxiety, and ADHD. During 2012, patient B was  
8 also under the care of his treating psychiatrist, Dr. T.L., who was also prescribing controlled  
9 substances. According to the CURES report for patient B, the following prescriptions for  
10 controlled substances were filled for patient B during 2012:

Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
01-02-2012	Lorazepam	1 mg	90	30	Respondent
01-14-2012	Hydrocodone/APAP	10/325 mg	240	30	Respondent
01-16-2012	Clonazepam <sup>19</sup>	0.5 mg	90	30	Dr. T.L.
01-16-2012	Methylphenidate	54 mg	60	60	Dr. T.L.
02-10-2012	Hydrocodone/APAP	10/325 mg	240	15	Respondent
02-12-2012	Clonazepam	0.5 mg	90	30	Dr. T.L.
03-02-2012	Hydrocodone/APAP	10/325 mg	240	30	Respondent
03-10-2012	Lorazepam	1 mg	90	30	Respondent
03-29-2012	Hydrocodone/APAP	10/325 mg	240	30	Respondent
04-02-2012	Lorazepam	1 mg	90	30	Respondent
04-12-2012	Methylphenidate	54 mg	30	30	Dr. T.L.

24  
25       <sup>19</sup> Clonazepam (Klonopin®), a benzodiazepine, is a centrally acting hypnotic-sedative that  
26 is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057,  
27 subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.  
28 When properly prescribed and indicated, it is used to treat seizure disorders and panic disorders.  
Concomitant use of Klonopin® with opioids "may result in profound sedation, respiratory  
depression, coma, and death." The DEA has identified benzodiazepines, such as Klonopin®, as a  
drug of abuse. (Drugs of Abuse, DEA Resource Guide (2011 Edition), at p. 53.)

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	04-22-2012	Hydrocodone/APAP	10/325 mg	240	30	Respondent
2	05-18-2012	Hydrocodone/APAP	10/325 mg	240	30	Respondent
3	05-30-2012	Clonazepam	0.5 mg	30	10	Dr. T.L.
4	05-31-2012	Methylphenidate	54 mg	60	60	Dr. T.L.
5	06-06-2012	Clonazepam	0.5 mg	90	30	Dr. T.L.
6	06-06-2012	OxyContin	40 mg	60	30	Respondent
7	06-11-2012	Hydrocodone/APAP	10/325 mg	240	30	Respondent
8	06-29-2012	Clonazepam	0.5 mg	90	30	Dr. T.L.
9	06-29-2012	OxyContin	40 mg	8	4	Other
10	07-03-2012	OxyContin	40 mg	60	30	Respondent
11	07-13-2012	Hydrocodone/APAP	10/325 mg	240	30	Respondent
12	07-26-2012	Clonazepam	0.5 mg	90	30	Dr. T.L.
13	08-01-2012	OxyContin	20 mg	60	30	Respondent
14	08-01-2012	Methylphenidate	54 mg	60	60	Dr. T.L.
15	08-07-2012	Hydrocodone/APAP	10/325 mg	240	30	Respondent
16	08-21-2012	Clonazepam	0.5 mg	90	30	Dr. T.L.
17	08-31-2012	OxyContin	20 mg	60	30	Respondent
18	09-07-2012	Hydrocodone/APAP	10/325 mg	240	30	Respondent
19	09-23-2012	Clonazepam	0.5 mg	90	30	Dr. T.L.
20	10-02-2012	Hydrocodone/APAP	10/325 mg	240	30	Respondent
21	10-04-2012	Adderall XR <sup>20</sup>	20 mg	30	30	Dr. T.L.
22						
23						

<sup>20</sup> Adderall®, a mixture of d-amphetamine and l-amphetamine salts in a ratio of 3:1, is a central nervous system stimulant of the amphetamine class, and is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated, it is used for attention-deficit hyperactivity disorder and narcolepsy. According to the DEA, amphetamines, such as Adderall®, are considered a drug of abuse. "The effects of amphetamines and methamphetamine are similar to cocaine, but their onset is slower and their duration is longer." (Drugs of Abuse – A DEA Resource Guide (2011), at p. 44.) Adderall and other stimulants are contraindicated for patients with a history of drug abuse.

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	10-04-2012	OxyContin	20 mg	60	30	Dr. D.B. <sup>21</sup>
2	10-18-2012	Clonazepam	0.5 mg	135	30	Dr. T.L.
3	11-05-2012	Hydrocodone/APAP	10/325 mg	240	30	Respondent
4	11-08-2012	Adderall XR	30 mg	30	30	Dr. T.L.
5	11-12-2012	Clonazepam	0.5 mg	135	30	Dr. T.L.
6	11-21-2012	OxyContin	20 mg	60	30	Dr. D.B.
7	12-04-2012	Hydrocodone/APAP	10/325 mg	240	30	Respondent
8	12-12-2012	Adderall XR	30 mg	30	30	Dr. T.L.
9	12-22-2012	Clonazepam	0.5 mg	135	30	Dr. T.L.

11           20. During the period of on or about January 1, 2013, to December 31, 2013, respondent  
 12 had two (2) office visits with patient B. According to respondent's progress notes, the visits took  
 13 place on January 17 and September 13, 2013. Patient B's problems during this time generally  
 14 included, but were not limited to, alleged chronic pain, depression, hypertension, and GERD.  
 15 According to the CURES report for patient B, the following prescriptions for controlled  
 16 substances were filled for patient B during 2013:

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
17	01-02-2013	Hydrocodone/APAP	10/325 mg	240	30	Respondent
18	01-03-2013	OxyContin	20 mg	60	30	Respondent
19	01-14-2013	Clonazepam	0.5 mg	135	30	Dr. T.L.
20	01-16-2013	Adderall XR	30 mg	30	30	Dr. T.L.
21	01-30-2013	OxyContin	20 mg	30	30	Respondent
22	01-30-2013	Hydrocodone/APAP	10/325 mg	240	30	Respondent
23	02-07-2013	Adderall XR	20 mg	60	30	Other
24	02-11-2013	Clonazepam	0.5 mg	135	30	Dr. T.L.
25						
26						

27           <sup>21</sup> At his interview before an HQIU investigator, respondent identified Dr. D.B. as one of  
 28 his partners that would "share call" and cover for him if he was out of the office.

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	02-26-2013	OxyContin	20 mg	60	30	Respondent
2	02-26-2013	Hydrocodone/APAP	10/325 mg	240	30	Respondent
3	03-07-2013	Adderall XR	30 mg	60	30	Dr. T.L.
4	03-09-2013	Clonazepam	0.5 mg	135	30	Dr. T.L.
5	03-25-2013	Hydrocodone/APAP	10/325 mg	240	30	Respondent
6	04-03-2013	OxyContin	20 mg	60	30	Respondent
7	04-04-2013	Clonazepam	0.5 mg	135	30	Dr. T.L.
8	04-05-2013	Adderall XR	30 mg	60	30	Dr. T.L.
9	04-21-2013	Hydrocodone/APAP	10/325 mg	240	30	Respondent
10	04-29-2013	OxyContin	20 mg	60	30	Respondent
11	04-29-2013	Clonazepam	0.5 mg	135	30	Dr. T.L.
12	05-09-2013	Adderall XR	30 mg	60	30	Dr. T.L.
13	05-18-2013	Hydrocodone/APAP	10/325 mg	240	30	Respondent
14	05-31-2013	Clonazepam	0.5 mg	135	30	Dr. T.L.
15	06-03-2013	OxyContin	20 mg	60	30	Respondent
16	06-04-2013	Adderall XR	30 mg	60	30	Dr. T.L.
17	06-13-2013	Hydrocodone/APAP	10/325 mg	240	30	Respondent
18	06-26-2013	Clonazepam	0.5 mg	135	30	Dr. T.L.
19	07-05-2013	OxyContin	20 mg	60	30	Respondent
20	07-05-2013	Adderall XR	30 mg	60	30	Dr. T.L.
21	07-15-2013	Hydrocodone/APAP	10/325 mg	240	30	Respondent
22	07-22-2013	Clonazepam	0.5 mg	135	30	Dr. T.L.
23	08-16-2013	Hydrocodone/APAP	10/325 mg	240	30	Respondent
24	08-20-2013	Clonazepam	0.5 mg	135	30	Dr. T.L.
25	08-23-2013	Adderall XR	30 mg	60	30	Dr. T.L.
26	08-23-2013	OxyContin	20 mg	60	30	Respondent
27						
28						

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	09-13-2013	Hydrocodone/APAP	10/325 mg	240	30	Respondent
2	09-21-2013	Adderall XR	30 mg	60	30	Dr. T.L.
3	09-21-2013	Clonazepam	0.5 mg	135	30	Dr. T.L.
4	09-21-2013	OxyContin	20 mg	60	30	Respondent
5	10-08-2013	Hydrocodone/APAP	10/325 mg	240	30	Respondent
6	10-21-2013	OxyContin	20 mg	60	30	Respondent
7	11-06-2013	Hydrocodone/APAP	10/325 mg	240	30	Respondent
8	11-06-2013	Clonazepam	0.5 mg	135	30	Dr. T.L.
9	11-12-2013	Adderall XR	30 mg	60	30	Dr. T.L.
10	11-20-2013	OxyContin	20 mg	60	30	Respondent
11	12-09-2013	Hydrocodone/APAP	10/325 mg	240	30	Respondent
12	12-19-2013	Clonazepam	0.5 mg	135	30	Dr. T.L.

14           21. During the period of on or about January 1, 2014, to December 31, 2014, respondent  
 15 had five (5) office visits with patient B. According to respondent's progress notes, the visits took  
 16 place on January 2, April 14, June 9, July 10, and September 12, 2014. Patient B's problems  
 17 during this time generally included, but were not limited to, alleged chronic pain, depression,  
 18 chronic bronchitis, hypertension, hypogonadism, GERD, and ADHD. On the visit of June 9,  
 19 2014, patient B reported, among other things, that he had not taken any opiate pain relievers for  
 20 the last two weeks and "he [was] agreeable to staying off oxycontin and trying tramadol/apap for  
 21 mild to moderate pain instead of hydrocodone 10 mg/325 mg..." and also complained of "low  
 22 motivation, low energy and low sex drive" that respondent attributed to "hypogonadism thought  
 23 secondary to increased weight and chronic opiate use." In response, respondent provided patient  
 24 B with a tapering schedule<sup>22</sup> with his plan documented as discontinue OxyContin, use  
 25

26           <sup>22</sup> The tapering schedule was on an undated handwritten note from respondent, discovered  
 27 by patient B's mother after her son had overdosed. Respondent indicated in his interview before  
 28 a HQIU investigator, that he believed the note was written in 2014 when patient B and respondent  
 discussed "opiod use [as] a contributor to his hypogonadism and decreased sex drive [a]nd he  
 wanted to taper his opiates."

1 hydrocodone 10/325 mg only as needed for severe pain and “otherwise use of ultracet 37.5·  
2 mg/325 one-two tablet every 4-6 hour for pain” and also prescribed testosterone. Despite the fact  
3 that the OxyContin was to be discontinued per respondent’s chart note for June 9, 2014, a  
4 prescription of OxyContin was filled the same day; and despite that hydrocodone 10/325 mg was  
5 only to be used “as needed for severe pain” patient B filled additional prescriptions for  
6 hydrocodone/APAP 10/325 mg (#240) on June 16, July 25, August 26, and September 25, 2014.  
7 At the beginning of 2014, patient B’s MED was approximately 140 mg/day and at the end of  
8 2014 was at approximately 80 mg per day. During 2014, patient B filled his prescriptions at  
9 approximately seven (7) different pharmacies. According to the CURES report for patient B, the  
10 following prescriptions for controlled substances were filled for patient B during 2014:

Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
01-02-2014	OxyContin	20 mg	60	30	Respondent
01-05-2014	Adderall XR	30 mg	60	30	Dr. T.L.
01-09-2014	Hydrocodone/APAP	10/325 mg	240	30	Respondent
01-27-2014	OxyContin	20 mg	60	30	Respondent
02-03-2014	Hydrocodone/APAP	10/325 mg	240	30	Respondent
02-20-2014	Clonazepam	0.5 mg	135	30	Dr. T.L.
02-21-2014	OxyContin	20 mg	60	30	Respondent
02-27-2014	Hydrocodone/APAP	10/325 mg	240	30	Dr. T.L.
03-19-2014	OxyContin	20 mg	60	30	Respondent
03-24-2014	Hydrocodone/APAP	10/325 mg	240	30	Respondent
04-07-2014	Clonazepam	0.5 mg	135	30	Dr. T.L.
04-15-2014	Adderall XR	30 mg	60	30	Dr. T.L.
04-16-2014	OxyContin	20 mg	60	30	Respondent
04-23-2014	Hydrocodone/APAP	10/325 mg	240	30	Respondent
05-09-2014	Clonazepam	0.5 mg	135	30	Dr. T.L.
05-12-2014	OxyContin	20 mg	60	30	Respondent

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	05-15-2014	Adderall	30 mg	60	30	Dr. T.L.
2	05-19-2014	Hydrocodone/APAP	10/325 mg	240	30	Respondent
3	06-03-2014	Clonazepam	1 mg	90	30	Dr. T.L.
4	06-09-2014	Androgel <sup>23</sup>	1.62%	75	30	Respondent
5	06-09-2014	OxyContin	20 mg	60	30	Respondent
6	06-15-2014	Adderall	30 mg	60	30	Dr. T.L.
7	06-16-2014	Hydrocodone/APAP	10/325 mg	240	30	Respondent
8	06-28-2014	Clonazepam	1 mg	90	30	Dr. T.L.
9	07-07-2014	Androgel	1.62%	75	30	Respondent
10	07-12-2014	Adderall	30 mg	60	30	Dr. T.L.
11	07-25-2014	Hydrocodone/APAP	10/325 mg	240	30	Respondent
12	07-31-2014	Clonazepam	1 mg	90	30	Dr. T.L.
13	08-10-2014	Androgel	1.62%	75	30	Respondent
14	08-19-2014	Adderall	30 mg	60	30	Dr. T.L.
15	08-26-2014	Hydrocodone/APAP	10/325 mg	240	30	Respondent
16	08-26-2014	Clonazepam	1 mg	90	30	Dr. T.L.
17	09-25-2014	Hydrocodone/APAP	10/325 mg	240	30	Respondent
18	09-25-2014	Adderall	30 mg	60	30	Dr. T.L.
19	09-25-2014	Clonazepam	1 mg	90	30	Dr. T.L.
20	10-11-2014	Androgel	1.62%	75	30	Respondent
21	10-29-2014	Clonazepam	1 mg	90	30	Dr. T.L.
22	10-30-2014	Adderall	30 mg	60	30	Dr. T.L.
23	11-09-2014	Androgel	1.62%	75	30	Respondent
24						
25						

<sup>23</sup> Androgel® (testosterone) is a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (f), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated, it is used as a replacement therapy in adult males for conditions associated with a deficiency or absence of endogenous testosterone.

Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
12-04-2014	Androgel	1.62%	75	30	Respondent
12-04-2014	Clonazepam	1 mg	90	30	Dr. T.L.
12-09-2014	Adderall	30 mg	60	30	Dr. T.L.

22. During the period of on or about January 1, 2015, to December 31, 2015, respondent  
 6 had four (4) office visits with patient B. According to respondent's progress notes, the visits took  
 7 place on January 9, May 6, October 28, and December 16, 2015. Patient B's problems during this  
 8 time generally included, but were not limited to, alleged chronic pain, depression, chronic  
 9 bronchitis, hypertension, hypogonadism, and ADHD. Near the end of 2015, patient B's MED  
 10 was between 110 to 140 mg/day. During 2015, patient B filled his prescriptions at approximately  
 11 six (6) different pharmacies. According to the CURES report for patient B, the following  
 12 prescriptions for controlled substances were filled for patient B during 2015:

Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
01-03-2015	Clonazepam	1 mg	90	30	Dr. T.L.
01-05-2015	Androgel	1.62%	75	30	Respondent
01-08-2015	Lorazepam	2 mg	30	30	Dr. T.L.
01-08-2015	Vyvanse <sup>24</sup>	70 mg	30	30	Dr. T.L.
01-09-2015	Hydrocodone/APAP	10/325 mg	180	22	Respondent
01-09-2015	Oxycodone	10 mg	90	22	Respondent
03-27-2015	Lorazepam	2 mg	30	30	Dr. T.L.

22           <sup>24</sup> Vyvanse® (lisdexamfetamine dimesylate), a central nervous system stimulant, is a  
 23 Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision  
 24 (d), and a dangerous drug pursuant to Business and Professions Code section 4022. When  
 25 properly prescribed and indicated, it is used to treat Attention Deficit Hyperactivity Disorder  
 26 (ADHD) or moderate to severe binge eating disorder (BED) in adults. According to the DEA,  
 27 stimulants, such as Vyvanse®, are considered a drug of abuse. "The effects of amphetamines and  
 28 methamphetamine are similar to cocaine, but their onset is slower and their duration is longer."  
 (Drugs of Abuse – A DEA Resource Guide (2011), at p. 44.) Stimulants are contraindicated for  
 patients with a history of drug abuse. The FDA has issued the following box warning, "Warning  
 Abuse and Dependence [-] CNS stimulants (amphetamines and methylphenidate containing  
 products), including Vyvanse®, have a high potential for abuse and dependence. Assess the risk  
 of abuse prior to prescribing and monitor for signs of abuse and dependence while on therapy."

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	04-23-2015	Hydrocodone/APAP	10/325 mg	180	22	Respondent
2	04-24-2015	Lorazepam	2 mg	30	30	Dr. T.L.
3	05-12-2015	Adderall	30 mg	30	30	Respondent
4	05-15-2015	Hydrocodone/APAP	10/325 mg	240	30	Respondent
5	06-22-2015	Hydrocodone/APAP	10/325 mg	180	30	Respondent
6	06-30-2015	Lorazepam	1 mg	60	30	Respondent
7	07-22-2015	Hydrocodone/APAP	10/325 mg	180	30	Dr. D.B.
8	08-24-2015	Hydrocodone/APAP	10/325 mg	240	30	Respondent
9	09-17-2015	Lorazepam	1 mg	60	30	Dr. A.P. <sup>25</sup>
10	09-22-2015	Hydrocodone/APAP	10/325 mg	240	30	Respondent
11	10-06-2015	Adderall	10 mg	30	30	Respondent
12	10-12-2015	Oxycodone	10 mg	90	22	Dr. D.B.
13	10-14-2015	Lorazepam	1 mg	60	30	Dr. D.B.
14	10-20-2015	Hydrocodone/APAP	10/325 mg	240	30	Respondent
15	11-02-2015	Adderall	10 mg	30	30	Respondent
16	11-04-2015	OxyContin	20 mg	60	30	Respondent
17	11-11-2015	Lorazepam	1 mg	60	30	Respondent
18	11-16-2015	Hydrocodone/APAP	10/325 mg	240	30	Respondent
19	11-25-2015	Zolpidem Tartrate	10 mg	30	30	Respondent
20	12-13-2015	Lorazepam	1 mg	60	30	Respondent
21	12-15-2015	Hydrocodone/APAP	10/325 mg	240	30	Respondent
22	12-16-2015	Adderall	10 mg	30	30	Respondent
23	12-16-2015	OxyContin	10 mg	60	30	Respondent
24						
25						
26						
27						
28						

<sup>25</sup> At his interview before an HQIU investigator, respondent identified Dr. A.P. as one of his partners that would "share call" and cover for him if he was out of the office.

1           23. During the period of on or about January 1, 2016, to December 31, 2016, respondent  
2 had nine (9) office visits with patient B. According to respondent's progress notes, the visits took  
3 place on January 22, March 17, May 2, May 11, June 8, June 20, June 27, July 7, and July 28,  
4 2016. Patient B's problems during this time generally included, but were not limited to, alleged  
5 chronic pain, depression, anxiety, hypertension, hypogonadism, Stevens-Johnson syndrome (a  
6 rare and serious skin and mucous membrane disorder related to severe reaction to medicine),  
7 psychotic episode with diagnosis of bipolar disorder, renal insufficiency, pulmonary embolism  
8 with brief hospitalization, and ADHD. Beginning in approximately March 2016, patient B was  
9 filling prescriptions under two different names, of which respondent was unaware. On May 2,  
10 2016, respondent had a follow up visit with patient B, after patient B suffered a bipolar manic  
11 episode and was admitted to UCSD for Stevens-Johnson syndrome secondary to Tegretol. On  
12 May 10, 2016, unbeknownst to respondent, patient B filled a prescription for Oxycodone 10 mg  
13 (#60) that was prescribed by another prescriber, Dr. M.R. On May 11, 2016, respondent had a  
14 follow up visit with patient B, at which time his plan in regard to pain control was documented as  
15 "pt. [patient] previously dependent on short term opiate pain relievers [-] pt. has #57 tablets left of  
16 oxycodone 10 mg which his wife is dispensing tid [three per day] will use fentanyl patch<sup>26</sup> 50  
17 mcg q 72 hour [one patch every 72 hours] for one month then discontinue after short hydrocodone  
18 taper." (Emphasis added.) On June 20, 2016, respondent documented, among other things, that  
19 "[patient B] last filled clonazepam 1 mg tid #90 on 5/27 [and] /h>e has already run out."  
20 (Emphasis added.) On July 7, 2016, respondent had a follow up appointment with patient B and  
21 documented the following as part of his plan, "pt. requesting pain relief ... Prefer to avoid prn [as  
22 needed] pain reliever with [patient B's] past opiate dependence [-] will use fentanyl 25 mcg patch

23           

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<sup>26</sup> Fentanyl transdermal (Duragesic®) patches are a Schedule II controlled substance  
24 pursuant to Health and Safety Code section 11055, subdivision (c), and a dangerous drug  
25 pursuant to Business and Professions Code section 4022. When properly prescribed and  
26 indicated fentanyl transdermal patches are used for the management of pain in opioid-tolerant  
27 patients, severe enough to require daily, around-the-clock, long term opioid treatment and for  
28 which alternative treatment options are inadequate. The FDA has issued several black box  
warnings about fentanyl transdermal patches including, but not limited to, the risks of addiction,  
abuse and misuse; life threatening respiratory depression; accidental exposure; neonatal opioid  
withdrawal syndrome; and the risks associated with the concomitant use with benzodiazepines or  
other CNS depressants.

1        q 72 hour with goal of discontinuing medication in 4 weeks," which was one-half the dosage of  
2 patient B's prior prescription of 50 mcg/hour, with patient B filling the prescription on the same  
3 day. (Emphasis added.) On July 28, 2016, respondent had another follow up visit with patient B,  
4 in which he noted "[t]he fentanyl patch 25 mcg q 72 hour has helped some but would like to  
5 increase to 50 mcg" with respondent doubling the fentanyl patch dosage from 25 mcg/hour back  
6 up to 50 mcg/hour,<sup>27</sup> in combination with the clonazepam 1 mg t.i.d. (#90) and zolpidem tartrate  
7 (Ambien) 10 mg (#30) that was also being prescribed to him.

8        24. On or about August 1, 2016, at approximately 3:30 a.m., patient B's mother was  
9 awakened when she heard her nine-month old granddaughter crying in her son's room. When she  
10 entered her son's room, she saw her son slumped over his bed and not breathing. Patient B's  
11 mother called her husband to the room who attempted CPR. 9-1-1 was called. When patient B  
12 was moved off his bed a syringe fell to the floor. The autopsy report for patient B lists his cause  
13 of death as "Acute Mixed Drug Interaction"<sup>28</sup> and manner of death as "Accident." According to  
14 the CURES report for patient B, the following prescriptions for controlled substances were filled  
15 for patient B during 2016:

Filled	Drug Name	Strength	Quantity	Days	Prescriber
01-08-2016	Lorazepam	2 mg	30	30	Respondent
01-12-2016	Hydrocodone/APAP	10/325 mg	240	30	Dr. D.B.

20        <sup>27</sup> At his interview before an HQIU investigator, respondent was asked why he doubled  
21 the strength of the fentanyl patch from 25 mcg/hour back up to 50 mcg/hour and respondent  
22 replied that patient B advised him that he had doubled up the dose and was using two of the 25  
23 mcg patches. This was not verified, nor was it documented in respondent's chart note. As a  
24 result, respondent increased the dosage of the fentanyl patch from 25 mcg/hour to 50 mcg/hour,  
25 despite his earlier plan to taper patient B off of the fentanyl patches.

26        <sup>28</sup> Specifically, the Autopsy Report for patient B states, in pertinent part, "Toxicology  
27 testing of peripheral blood detected a potentially toxic concentration of fentanyl (6.8 ng/ml);  
28 slightly supratherapeutic concentrations of diphenhydramine (0.13 mg/L), citalopram (0.11  
mg/L), and amphetamine (0.14 mg/L); and low concentrations of trazodone (trace), zolpidem  
(trace) and benzodiazepine metabolite 7-aminoclonazepam (0.07 mg/L). All of the above may  
have contributed toward central nervous system depression; all are considered contributory  
toward the death. Amphetamine is included as it may contribute toward deleterious  
cardiorespiratory effects. Also detected were trace naproxen, warfarin and ibuprofen (which are  
not felt to be contributory toward the death)."

	Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	01-20-2016	OxyContin	10 mg	60	30	Respondent
2	01-22-2016	Clonazepam	1 mg	90	30	Respondent
3	01-25-2016	Zolpidem Tartrate	10 mg	30	30	Respondent
4	02-04-2016	Lorazepam	2 mg	30	30	Respondent
5	02-18-2016	Clonazepam	1 mg	90	30	Respondent
6	02-22-2016	Hydrocodone/APAP	10/325 mg	240	30	Respondent
7	02-23-2016	Zolpidem Tartrate	10 mg	30	30	Respondent
8	03-02-2016 <sup>29</sup>	Lorazepam	2 mg	30	30	Respondent
9	03-02-2016	OxyContin	10 mg	60	30	Respondent
10	03-17-2016	Clonazepam	1 mg	90	30	Respondent
11	03-20-2016	Hydrocodone/APAP	10/325 mg	240	30	Dr. A.P.
12	03-29-2016	Zolpidem Tartrate	10 mg	30	30	Respondent
13	03-31-2016	OxyContin	10 mg	60	30	Respondent
14	04-11-2016	Clonazepam	1 mg	90	30	Respondent
15	04-15-2016	Clonazepam	1 mg	42	14	Other
16	04-19-2016	Adderall	10 mg	30	30	Respondent
17	04-25-2016	Zolpidem Tartrate	10 mg	30	30	Respondent
18	05-09-2016	Clonazepam	1 mg	90	30	Respondent
19	05-10-2016	Oxycodone	10 mg	60	10	Other
20	05-11-2016	Fentanyl Transdermal	50 mcg/hour	5	15	Respondent
21	05-25-2016	Adderall	20 mg	30	30	Respondent
22	05-25-2016	Zolpidem Tartrate	10 mg	30	30	Respondent
23	05-27-2016	Clonazepam	1 mg	90	30	Respondent

<sup>29</sup> The prescriptions filled from March 2, 2016, through July 19, 2016, were filled with patient B using a different last name. CURES reports were run on both names and the prescriptions under both names are listed in the table above. It is currently unknown whether the use of a different name was pursuant to a legal name change.

Filled	Drug Name	Strength	Quantity	Days	Prescriber
06-21-2016	Zolpidem Tartrate	10 mg	30	30	Respondent
06-24-2016	Clonazepam	1 mg	45	15	Respondent
06-27-2016	Adderall	20 mg	60	30	Other
07-06-2016	Clonazepam	1 mg	45	15	Respondent
07-07-2016	Fentanyl Transdermal	25 mcg/hour	10	30	Respondent
07-19-2016	Zolpidem Tartrate	10 mg	30	30	Respondent
07-19-2016	Clonazepam	1 mg	45	15	Respondent
07-23-2016	Dexedrine <sup>30</sup>	20 mg	60	60	Other
07-28-2016	Fentanyl Transdermal	50 mcg/hour	10	30	Respondent

11        25. Throughout his course of treatment of patient B, respondent failed to adequately  
 12 respond to several warning signs indicating misuse, abuse and/or diversion of controlled  
 13 substances and did not take adequate risk screening measures to prevent the misuse, abuse and/or  
 14 the diversion of the controlled substances that he was prescribing. These warning signs included,  
 15 but were not limited to, multiple early refills and overuse of controlled substances.

16        26. Respondent committed gross negligence in his care and treatment of patient B which  
 17 included, but was not limited to, the following:

- 18              (a) Respondent failed to properly evaluate and manage patient B's chronic  
 19              nonmalignant pain;

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20              <sup>30</sup> The prescription for Dexedrine® is actually described by its generic name,  
 21 dextroamphetamine, in the CURES report. Dexedrine® (dextroamphetamine sulfate) is a central  
 22 nervous system stimulant of the amphetamine class. Dexedrine® is a Schedule II controlled  
 23 substance pursuant to Health and Safety Code section 11055, subdivision (d), and a dangerous  
 24 drug pursuant to Business and Professions Code section 4022. When properly prescribed and  
 25 indicated, it is used for the treatment of attention-deficit hyperactivity disorder and narcolepsy.  
 26 The DEA has identified amphetamines, such as Dexedrine®, as drugs of abuse. (Drugs of Abuse,  
 27 A DEA Resource Guide (2011 Edition), at pp. 42-44.) The Federal Drug Administration has  
 28 issued a black box warning for amphetamines which provides that "Amphetamines have a high  
 potential for abuse. Administration of amphetamines for prolonged periods of time may lead to  
 drug dependence and must be avoided. Particular attention should be paid to the possibility of  
 subjects obtaining amphetamines for non-therapeutic use or distribution to others, and the drugs  
 should be prescribed or dispensed sparingly. [¶] Misuse of amphetamines may cause sudden  
 death and serious cardiovascular adverse events." Dexedrine® and other stimulants are  
 contraindicated for patients with a history of drug abuse.

- (b) Respondent repeatedly prescribed controlled substances, primarily opioids, to treat patient B's chronic nonmalignant pain without, among other things, sufficiently documenting the effect of patient B's pain on his function and quality of life, without following a rational treatment plan with measurable stated objectives including, but not limited to, pain level and function, and without adjusting treatment pursuant to a rationale and clearly documented treatment plan;
  - (c) Respondent repeatedly prescribed controlled substances, primarily benzodiazepines, to treat patient B's anxiety without, among other things, a sufficient and clearly documented history, physical examination and/or rationale treatment plan;
  - (d) Respondent repeatedly prescribed various controlled substances including, but not limited to, opioids, benzodiazepines, and/or other CNS depressants, without providing and documenting adequate informed consent;
  - (e) Respondent repeatedly prescribed controlled substances including, but not limited to, opioids, benzodiazepines and/or other CNS depressants, without being cognizant of aberrant drug behavior and without timely and adequate risk screening measures to address aberrant drug behavior including, but not limited to, effectively using pain management agreements, periodically reviewing CURES, obtaining information from pharmacies, and/or effectively utilizing pill counts;
  - (f) Respondent repeatedly increased the risk of harm to patient B, though his concurrent prescribing of opioids, benzodiazepines and/or other CNS depressants;
  - (g) Respondent excessively prescribed various controlled substances including, but not limited to, opiates, benzodiazepines, and/or other CNS depressants; and

(h) Respondent occasionally exceeded the recommended maximum daily dosage for acetaminophen (APAP).

### **PATIENT C**

4       27. During the period of on or about January 1, 2013, to December 31, 2013, respondent  
5       had one (1) known office visit<sup>31</sup> on July 8, 2013, with patient C, a then-49-year old male.  
6       According to the available problem list in medical records, Patient C's problems included, but  
7       were not limited to, adrenal cortical adenoma, anxiety, back and neck pain with neuralgia, chest  
8       pain, chronic pulmonary embolism, opioid dependence with secondary constipation,  
9       hypogonadotropic hypogonadism, hypothyroidism, morbid obesity, osteoarthritis with hip and  
10      knee pain, and sleep apnea treated with CPAP, with past surgical history of, among other things,  
11      bariatric surgery in February 2012. The progress note for the visit of July 8, 2013, indicates that  
12      respondent was attempting to treat Patient C's pain by prescribing him Oxycodone 15 mg (3 tabs  
13      every 3 hours – 360 mg/day) which equated to a MED of 540 mg per day. However,  
14      unbeknownst to respondent, because he was not checking CURES, patient C was periodically  
15      filling prescriptions from respondent on the same days at two different pharmacies and, thus, was  
16      getting twice the number of tablets of oxycodone 15 mg which equated to 720 mg/day of  
17      oxycodone for a MED of 1,080 mg/day.<sup>32</sup> During the period of June 24 to July 15, 2013 [20  
18      days], patient C obtained 1,328 tablets of oxycodone 15 mg which equated to approximately 66  
19      pills per day for a MED of 1,485 mg per day. According to the CURES report for patient C, the

<sup>31</sup> As part of its investigation of this matter, the HQIU requested a certified copy of medical records for patient C from respondent. According to the executed Certification of Records form, the certified records covered the period of January 1, 2013, to March 10, 2017, the dates the records were produced. The absence of any progress notes prior to July 8, 2013, was discussed with respondent and his counsel who indicated that "we would have to look into that." No additional records were produced by respondent or his counsel.

<sup>32</sup> As an example, patient C filled prescriptions for oxycodone from different pharmacies on March 25 (total of 332 tabs), April 1 (total of 332 tabs), July 8 (total of 332 tabs), July 15 (total of 498 tabs), August 12 (total of 332 tabs), August 19 (total of 332 tabs), September 16 (total of 332 tabs), October 21 (total of 332 tabs), October 28 (total of 332 tabs), November 4 (total of 332 tabs), and November 18, 2013 (total of 332 tabs). When asked about this at his interview with a HQIU investigator, respondent stated he was not aware that patient B was filling prescriptions at two different pharmacies on the same day because, as previously indicated, he was not checking CURES at the time.

following prescriptions for controlled substances were filled for patient C during 2013:

Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
01-03-2013	Oxycodone	20 mg	282	12	Other
01-07-2013	Carisoprodol <sup>33</sup>	350 mg	30	10	Respondent
01-07-2013	Oxycodone	15 mg	166	6	Respondent
01-10-2013	Oxycodone	20 mg	176	8	Other
01-14-2013	Clonazepam	1 mg	30	30	Respondent
01-14-2013	Oxycodone	15 mg	166	6	Respondent
01-14-2013	Diazepam	10 mg	60	30	Other
01-17-2013	Oxycodone	20 mg	160	10	Other
01-17-2013	Fentanyl Transdermal	25 mcg/hour	10	30	Other
01-21-2013	Oxycodone	15 mg	166	6	Respondent
01-25-2013	Hydrocodone/APAP	5/325 mg	50	8	Respondent
01-28-2013	Oxycodone	15 mg	166	6	Respondent
02-01-2013	Oxycodone	20 mg	90	30	Other
02-04-2013	Oxycodone	15 mg	166	7	Respondent
02-11-2013	Alprazolam	0.5 mg	90	30	Respondent
02-11-2013	Carisoprodol	350 mg	90	30	Respondent
02-11-2013	Clonazepam	2 mg	30	30	Respondent
02-11-2013	Oxycodone	15 mg	166	8	Respondent

<sup>33</sup> Carisoprodol (Soma®) is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated, it is used for the short-term treatment of acute and painful musculoskeletal conditions. Soma® is commonly used by those who abuse opioids to potentiate the euphoric effect of opioids, to create a better "high." According to the DEA, Office of Diversion Control, "[c]arisoprodol abuse has escalated in the last decade in the United States. According to Diversion Drug Trends, published by the DEA on the trends in diversion of controlled and noncontrolled pharmaceuticals, carisoprodol continues to be one of the most commonly diverted drugs. Diversion and abuse of carisoprodol is prevalent throughout the country. As of March 2011, street prices for [carisoprodol] Soma® ranged from \$1 to \$5 per tablet. Diversion methods include doctor shopping for the purposes of obtaining multiple prescriptions and forging prescriptions."

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	02-12-2013	Clonazepam	1 mg	30	30	Respondent
2	02-12-2013	Diazepam	10 mg	60	30	Other
3	02-18-2013	Oxycodone	15 mg	166	7	Respondent
4	02-25-2013	Oxycodone	15 mg	166	7	Respondent
5	03-04-2013	Oxycodone	15 mg	166	7	Respondent
6	03-11-2013	Oxycodone	15 mg	166	7	Respondent
7	03-13-2013	Clonazepam	1 mg	30	30	Respondent
8	03-18-2013	Oxycodone	15 mg	166	6	Respondent
9	03-25-2013	Oxycodone	15 mg	166	7	Respondent
10	03-25-2013	Oxycodone	15 mg	166	7	Respondent
11	03-27-2013	Alprazolam	0.5 mg	90	30	Respondent
12	03-31-2013	Diazepam	10 mg	60	30	Other
13	04-01-2013	Oxycodone	15 mg	166	7	Respondent
14	04-01-2013	Oxycodone	15 mg	166	7	Respondent
15	04-08-2013	Oxycodone	15 mg	166	7	Respondent
16	04-15-2013	Oxycodone	15 mg	166	7	Respondent
17	04-22-2013	Oxycodone	15 mg	166	11	Respondent
18	04-24-2013	Alprazolam	0.5 mg	90	30	Respondent
19	04-26-2013	Carisoprodol	350 mg	90	30	Respondent
20	04-26-2013	Clonazepam	2 mg	30	30	Respondent
21	04-29-2013	Oxycodone	15 mg	166	30	Respondent
22	05-06-2013	Oxycodone	15 mg	166	8	Respondent
23	05-13-2013	Oxycodone	15 mg	166	7	Respondent
24	05-20-2013	Carisoprodol	350 mg	90	30	Respondent
25	05-20-2013	Clonazepam	2 mg	30	30	Respondent
26	05-20-2013	Oxycodone	15 mg	332	14	Respondent
27						
28						

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	05-22-2013	Testosterone	Unknown	10	70	Other
2	05-22-2013	Compound	Unknown	10	70	Other
3	06-03-2013	Oxycodone	15 mg	166	7	Respondent
4	06-04-2013	Lunesta	3 mg	30	30	Respondent
5	06-10-2013	Oxycodone	15 mg	166	7	Respondent
6	06-17-2013	Oxycodone	15 mg	166	7	Respondent
7	06-19-2013	Testosterone	Unknown	10	70	Other
8	06-19-2013	Compound	Unknown	10	70	Other
9	06-20-2013	Clonazepam	2 mg	30	30	Respondent
10	06-20-2013	Carisoprodol	350 mg	90	30	Respondent
11	06-20-2013	Alprazolam	0.5 mg	90	30	Respondent
12	06-20-2013	Diazepam	10 mg	100	30	Other
13	06-24-2013	Oxycodone	15 mg	166	7	Respondent
14	07-01-2013	Oxycodone	15 mg	166	7	Respondent
15	07-08-2013	Oxycodone	15 mg	166	7	Respondent
16	07-08-2013	Oxycodone	15 mg	166	7	Respondent
17	07-15-2013	Oxycodone	15 mg	166	7	Respondent
18	07-15-2013	Oxycodone	15 mg	166	7	Respondent
19	07-15-2013	Oxycodone	15 mg	166	7	Respondent
20	07-15-2013	Oxycodone	15 mg	332	36	Respondent
21	07-22-2013	Alprazolam	0.5 mg	90	30	Other
22	07-22-2013	Oxycodone	15 mg	166	7	Respondent
23	07-22-2013	Carisoprodol	350 mg	90	30	Respondent
24	07-22-2013	Clonazepam	2 mg	30	30	Respondent
25	08-06-2013	Clonazepam	1 mg	30	30	Respondent
26	08-06-2013	Testosterone	Unknown	10	70	Other
27	08-06-2013	Compound	Unknown	10	70	Other
28						

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	08-12-2013	Oxycodone	15 mg	166	7	Respondent
2	08-12-2013	Oxycodone	15 mg	166	7	Respondent
3	08-19-2013	Oxycodone	15 mg	166	7	Respondent
4	08-19-2013	Oxycodone	15 mg	166	7	Respondent
5	08-22-2013	Lunesta	3 mg	30	30	Respondent
6	08-23-2013	Alprazolam	0.5 mg	90	30	Respondent
7	08-23-2013	Carisoprodol	350 mg	90	30	Respondent
8	08-23-2013	Clonazepam	2 mg	30	30	Respondent
9	08-26-2013	Oxycodone	15 mg	166	7	Respondent
10	09-03-2013	Oxycodone	15 mg	166	30	Respondent
11	09-09-2013	Oxycodone	15 mg	166	7	Respondent
12	09-10-2013	Clonazepam	1 mg	30	30	Respondent
13	09-14-2013	Carisoprodol	350 mg	90	30	Respondent
14	09-16-2013	Oxycodone	15 mg	166	7	Respondent
15	09-16-2013	Oxycodone	15 mg	166	7	Respondent
16	09-17-2013	Diazepam	10 mg	90	90	Other
17	09-23-2013	Oxycodone	15 mg	166	7	Respondent
18	10-07-2013	Compound	Unknown	10	70	Other
19	10-07-2013	Testosterone	Unknown	10	70	Other
20	10-07-2013	Oxycodone	15 mg	166	7	Respondent
21	10-13-2013	Clonazepam	1 mg	30	30	Respondent
22	10-21-2013	Clonazepam	2 mg	30	30	Respondent
23	10-21-2013	Oxycodone	15 mg	166	7	Respondent
24	10-21-2013	Oxycodone	15 mg	166	7	Respondent
25	10-23-2013	Alprazolam	0.5 mg	90	30	Respondent
26	10-23-2013	Lunesta	3 mg	30	30	Respondent

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	10-28-2013	Oxycodone	15 mg	166	7	Respondent
2	10-28-2013	Oxycodone	15 mg	166	7	Respondent
3	11-04-2013	Oxycodone	15 mg	166	7	Respondent
4	11-04-2013	Oxycodone	15 mg	166	7	Respondent
5	11-06-2013	Testosterone	Unknown	10	70	Other
6	11-06-2013	Compound	Unknown	10	70	Other
7	11-11-2013	Oxycodone	15 mg	166	7	Respondent
8	11-12-2013	Carisoprodol	350 mg	90	30	Respondent
9	11-15-2013	Clonazepam	1 mg	30	30	Respondent
10	11-18-2013	Oxycodone	15 mg	166	7	Respondent
11	11-18-2013	Oxycodone	15 mg	166	7	Respondent
12	11-22-2013	Clonazepam	2 mg	30	30	Respondent
13	11-22-2013	Lunesta	3 mg	30	30	Respondent
14	11-22-2013	Alprazolam	0.5 mg	90	30	Respondent
15	11-25-2013	Oxycodone	15 mg	166	7	Respondent
16	12-02-2013	Oxycodone	15 mg	166	7	Respondent
17	12-09-2013	Oxycodone	15 mg	166	7	Respondent
18	12-09-2013	Carisoprodol	350 mg	90	30	Respondent
19	12-10-2013	Diazepam	10 mg	90	90	Other
20	12-11-2013	Clonazepam	1 mg	30	30	Respondent
21	12-16-2013	Oxycodone	15 mg	166	7	Respondent
22	12-18-2013	Alprazolam	0.5 mg	90	30	Respondent
23	12-23-2013	Clonazepam	2 mg	30	30	Respondent
24	12-23-2013	Oxycodone	15 mg	166	7	Respondent
25	12-23-2013	Lunesta	3 mg	30	30	Respondent
26	12-26-2013	Oxycodone	15 mg	166	7	Respondent

1           28. During the period of on or about January 1, 2014, to December 31, 2014, respondent  
2 had two (2) office visits with patient C. According to respondent's progress notes, the visits took  
3 place on June 3 (almost eleven months since his last visit with respondent) and September 12,  
4 2014 (pre-operative visit for upcoming cervical surgery). Patient C's problems during this time  
5 generally included, but were not limited to, obesity, osteoarthritis, spinal stenosis, hypogonadism,  
6 hypothyroidism, and GERD. During 2014, patient C continued his practice of filling some of his  
7 prescriptions for oxycodone on the same day at two different pharmacies which, once again,  
8 doubled the amount of pills he was supposed to receive on those dates and increased his MED  
9 from 540 mg per day to 1,080 mg per day.<sup>34</sup> On September 8, 2014, respondent was given a  
10 phone message from a pharmacist indicating that he was "concerned with [patient C] and the  
11 recent early refills." On November 3, 2014, patient C underwent extensive back surgery that was  
12 performed by Dr. S.L. at Scripps Memorial Hospital to address severe cervical spondylosis,  
13 posterior cervical segmental instability, and severe thoracic stenosis with cord compression and  
14 severe thoracic degenerative spondylosis. According to the CURES report for patient C, the  
15 following prescriptions for controlled substances were filled for patient C during 2014:

Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
01-02-2014	Promethazine Codeine Syrup	6.25 mg/5 ml to 10 mg/5 ml	120	2	Other
01-02-2014	Oxycodone	15 mg	166	7	Respondent
01-06-2014	Oxycodone	15 mg	166	7	Respondent
01-09-2014	Oxycodone	15 mg	166	7	Respondent
01-10-2014	Carisoprodol	350 mg	90	30	Respondent
01-20-2014	Oxycodone	15 mg	166	7	Respondent

24  
25           <sup>34</sup> As an example, patient C filled prescriptions for oxycodone 15 mg from the Hillcrest  
26 and Priority pharmacies on January 2 (total of 332 tabs), March 17 (total of 332 tabs), March 24  
27 (total of 332 tabs), March 31 (total of 332 tabs), April 7 (total of 332 tabs), May 5 (total of 332  
tabs), July 10 (total of 498 tabs), November 20 (total of 332 tabs), November 21 (150 tabs of 15  
mg and 150 tabs of 30 mg) and November 26, 2014 (total of 332 tabs).

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	01-21-2014	Testosterone-M <sup>35</sup>	Unknown	10	50	Other
2	01-21-2014	Testosterone-P <sup>36</sup>	Unknown	10	50	Other
3	01-22-2014	Clonazepam	2 mg	30	30	Respondent
4	01-27-2014	Oxycodone	15 mg	166	7	Respondent
5	02-03-2014	Oxycodone	15 mg	332	14	Respondent
6	02-03-2014	Alprazolam	0.5 mg	90	30	Respondent
7	02-03-2014	Oxycodone	15 mg	166	7	Respondent
8	02-04-2014	Carisoprodol	350 mg	90	30	Respondent
9	02-13-2014	Oxycodone	15 mg	166	7	Respondent
10	02-17-2014	Oxycodone	15 mg	166	7	Respondent
11	02-20-2014	Oxycodone	15 mg	166	7	Respondent
12	02-21-2014	Clonazepam	2 mg	30	30	Respondent
13	02-24-2014	Oxycodone	15 mg	166	7	Respondent
14	02-27-2014	Oxycodone	15 mg	166	7	Respondent
15	03-03-2014	Oxycodone	15 mg	166	7	Respondent
16	03-03-2014	Carisoprodol	350 mg	90	30	Respondent
17	03-06-2014	Alprazolam	0.5 mg	90	30	Respondent
18	03-10-2014	Oxycodone	15 mg	166	7	Respondent
19	03-17-2014	Oxycodone	15 mg	166	7	Respondent
20	03-17-2014	Oxycodone	15 mg	166	7	Respondent
21	03-24-2014	Oxycodone	15 mg	166	7	Respondent
22	03-24-2014	Oxycodone	15 mg	166	7	Respondent
23	03-27-2014	Carisoprodol	350 mg	30	30	Respondent
24	03-31-2014	Oxycodone	15 mg	166	7	Respondent

<sup>35</sup> Testosterone-M is abbreviated for Testosterone Micronized.

<sup>36</sup> Testosterone-P is abbreviated for Testosterone Propionate.

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	03-31-2014	Oxycodone	15 mg	166	7	Respondent
2	04-03-2014	Alprazolam	0.5 mg	90	30	Respondent
3	04-07-2014	Oxycodone	15 mg	166	7	Respondent
4	04-07-2014	Oxycodone	15 mg	166	7	Respondent
5	04-14-2014	Oxycodone	15 mg	166	7	Respondent
6	04-21-2014	Carisoprodol	350 mg	90	30	Respondent
7	04-21-2014	Oxycodone	15 mg	166	7	Respondent
8	04-21-2014	Clonazepam	2 mg	30	30	Respondent
9	04-21-2014	Oxycodone	15 mg	166	7	Respondent
10	04-28-2014	Oxycodone	15 mg	166	7	Respondent
11	04-28-2014	Oxycodone	15 mg	166	7	Respondent
12	04-28-2014	Oxycodone	15 mg	166	7	Respondent
13	05-05-2014	Oxycodone	15 mg	166	7	Respondent
14	05-05-2014	Oxycodone	15 mg	166	7	Respondent
15	05-06-2014	Alprazolam	0.5 mg	90	30	Respondent
16	05-12-2014	Oxycodone	15 mg	166	7	Respondent
17	05-16-2014	Clonazepam	2 mg	30	30	Respondent
18	05-19-2014	Oxycodone	15 mg	166	7	Respondent
19	05-23-2014	Carisoprodol	350 mg	90	30	Respondent
20	05-23-2014	Oxycodone	15 mg	166	7	Dr. H.W. <sup>37</sup>
21	05-27-2014	Oxycodone	15 mg	166	7	Respondent
22	06-02-2014	Oxycodone	15 mg	166	7	Respondent
23	06-05-2014	Oxycodone	15 mg	166	7	Respondent
24	06-10-2014	Alprazolam	0.5 mg	90	30	Dr. H.W.
25	06-10-2014	Hydrocodone/APAP	5/325 mg	25	3	Other
26						

<sup>37</sup> At his interview before an HQIU investigator, respondent identified Dr. H.W. as one of his partners that would "share call" and cover for him if he was out of the office.

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	06-10-2014	Oxycodone	15 mg	166	7	Respondent
2	06-12-2014	Oxycodone	15 mg	166	7	Respondent
3	06-16-2014	Carisoprodol	350 mg	90	30	Respondent
4	06-16-2014	Clonazepam	2 mg	30	30	Respondent
5	06-19-2014	Oxycodone	15 mg	166	7	Respondent
6	06-20-2014	Diazepam	10 mg	90	90	Other
7	06-26-2014	Oxycodone	15 mg	166	6	Respondent
8	06-27-2014	Testosterone-P	Unknown	10	50	Other
9	06-27-2014	Testosterone-M	Unknown	10	50	Other
10	07-03-2014	Oxycodone	15 mg	166	6	Respondent
11	07-07-2014	Alprazolam	0.5 mg	90	30	Dr. H.W.
12	07-10-2014	Oxycodone	15 mg	332	14	Respondent
13	07-10-2014	Oxycodone	15 mg	166	7	Respondent
14	07-11-2014	Carisoprodol	350 mg	90	30	Respondent
15	07-17-2014	Oxycodone	15 mg	166	30	Respondent
16	07-18-2014	Clonazepam	2 mg	30	30	Other
17	07-21-2014	Oxycodone	15 mg	332	30	Respondent
18	08-01-2014	Oxycodone	15 mg	166	30	Respondent
19	08-08-2014	Testosterone-M	Unknown	10	50	Other
20	08-08-2014	Testosterone-P	Unknown	10	50	Other
21	08-09-2014	Carisoprodol	350 mg	90	30	Respondent
22	08-09-2014	Clonazepam	2 mg	30	30	Dr. H.W.
23	08-11-2014	Oxycodone	15 mg	166	7	Respondent
24	08-18-2014	Oxycodone	15 mg	166	7	Respondent
25	08-25-2014	Testosterone-M	Unknown	10	50	Other
26	08-25-2014	Testosterone-P	Unknown	10	50	Other

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	08-29-14	Diazepam	10 mg	90	90	Other
2	09-22-2014	Oxycodone	15 mg	166	7	Respondent
3	10-03-2014	Oxycodone	15 mg	332	14	Dr. H.W.
4	10-23-2014	Oxycodone	15 mg	166	7	Respondent
5	10-30-2014	Oxycodone	15 mg	166	7	Respondent
6	11-06-2014	Alprazolam	1 mg	60	30	Respondent
7	11-06-2014	Clonazepam	2 mg	30	30	Respondent
8	11-06-2014	Oxycodone	15 mg	166	7	Respondent
9	11-09-2014	Diazepam	10 mg	56	14	Other
10	11-09-2014	Carisoprodol	350 mg	42	14	Other
11	11-09-2014	Oxycodone	30 mg	112	14	Other
12	11-09-2014	OxyContin	10 mg	28	14	Other
13	11-09-2014	Oxycodone	30 mg	112	14	Other
14	11-09-2014	OxyContin	20 mg	28	14	Other
15	11-13-2014	Oxycodone	15 mg	166	7	Respondent
16	11-20-2014	Carisoprodol	350 mg	90	30	Dr. A.P.
17	11-20-2014	Oxycodone	15 mg	166	7	Respondent
18	11-20-2014	Oxycodone	15 mg	166	7	Respondent
19	11-21-2014	Oxycodone	15 mg	150	19	Dr. S.L.
20	11-21-2014	Oxycodone	30 mg	150	19	Dr. S.L.
21	11-21-2014	Diazepam	10 mg	90	45	Dr. S.L.
22	11-21-2014	OxyContin	20 mg	90	30	Dr. S.L.
23	11-21-2014	OxyContin	10 mg	90	45	Dr. S.L.
24	11-21-2014	Carisoprodol	350 mg	90	30	Dr. S.L.
25	11-26-2014	Oxycodone	15 mg	166	7	Respondent
26	11-26-2014	Oxycodone	15 mg	166	7	Respondent

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	12-04-2014	Clonazepam	2 mg	30	30	Respondent
2	12-04-2014	Alprazolam	1 mg	60	30	Respondent
3	12-04-2014	Oxycodone	15 mg	166	7	Respondent
4	12-11-2014	Oxycodone	15 mg	166	7	Respondent
5	12-11-2014	Oxycodone	15 mg	100	12	Other
6	12-11-2014	Oxycodone	30 mg	100	12	Other
7	12-15-2014	Carisoprodol	350 mg	90	30	Dr. S.L.
8	12-15-2014	Diazepam	10 mg	60	30	Dr. S.L.
9	12-18-2014	Oxycodone	15 mg	166	21	Respondent
10	12-18-2014	Carisoprodol	350 mg	90	30	Dr. A.P.
11	12-22-2014	Testosterone-P	Unknown	10	30	Other
12	12-22-2014	Testosterone-M	Unknown	10	30	Other
13	12-23-2014	Oxycodone	15 mg	166	7	Respondent
14	12-23-2014	Oxycodone	30 mg	120	18	Other
15	12-23-2014	Oxycodone	15 mg	120	15	Other

17  
18        29. During the period of on or about January 1, 2015, to December 31, 2015, respondent  
19 had two (2) office visits with patient C. According to respondent's progress notes, the visits took  
20 place on October 26 and December 11, 2015. Patient C's problems during this time generally  
21 included, but were not limited to, post-operative recovery from multilevel laminectomy with  
22 stabilization, osteoarthritis (improved with weight loss), hypogonadism, hypothyroidism, and  
23 GERD. Respondent continued patient C on oxycodone 15 mg (3 tabs every 3 hours) 360 mg/day  
24 [MED of 540 mg per day] which he inaccurately documented as "390 mg of oxycodone per day  
25 (45 mg taken q 3 hours)" in his progress note of October 26, 2015. On December 11, 2015,  
26 respondent inaccurately documented "pt. continued 390 mg of oxycodone per day," when patient  
27 C was actually taking 360 mg per day, and also noted "[c]ontinue to consider taper when ready."  
28 During 2015, respondent was prescribing a combination of opioids, benzodiazepines, and

1 carisoprodol (Soma), a dangerous drug combination known as the “holy trinity.”<sup>38</sup> According to  
2 the CURES report for patient C, the following prescriptions for controlled substances were filled  
3 for patient C during 2015:

Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
01-02-2015	Diazepam	10 mg	90	45	Other
01-07-2015	Oxycodone	15 mg	166	7	Respondent
01-07-2015	Oxycodone	30 mg	120	8	Other
01-14-2015	Carisoprodol	350 mg	90	30	Other
01-14-2015	Oxycodone	15 mg	166	7	Respondent
01-21-2015	Oxycodone	15 mg	166	7	Respondent
01-21-2015	Oxycodone	30 mg	120	20	Other
01-21-2015	Oxycodone	15 mg	120	20	Other
01-27-2015	Carisoprodol	350 mg	90	30	Other
01-28-2015	Oxycodone	15 mg	166	6	Respondent
01-28-2015	Clonazepam	2 mg	30	30	Respondent
01-28-2015	Alprazolam	1 mg	60	30	Respondent
02-02-2015	Testosterone-M	Unknown	10	30	Other
02-02-2015	Testosterone-P	Unknown	10	30	Other
02-04-2015	Oxycodone	15 mg	166	7	Respondent
02-10-2015	Oxycodone	30 mg	120	20	Other
02-10-2015	Oxycodone	15 mg	120	20	Other
02-11-2015	Oxycodone	15 mg	166	7	Respondent
02-11-2015	Carisoprodol	350 mg	90	30	Dr. A.P..

25                   <sup>38</sup> “Taking these three drugs in combination is typically not medically justified. When  
26 taken together these medications may give users a feeling of euphoria similar to heroin. As a  
27 result, this prescription drug combination, which may be referred to as ‘Houston Cocktail,’ ‘Holy  
28 Trinity,’ or ‘Trio,’ is subject to abuse and has resulted in deaths.” (M. Forrester, Ingestions of  
Hydrocodone, Carisoprodol, and Alprazolam in Combination Reported to Texas Poison Centers,  
Journal of Addictive Diseases, 30:110-115, 2011.)

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	02-18-2015	Oxycodone	15 mg	166	7	Respondent
2	02-24-2015	Diazepam	10 mg	90	30	Other
3	02-24-2015	Carisoprodol	350 mg	90	30	Other
4	02-25-2015	Oxycodone	15 mg	166	7	Respondent
5	02-25-2015	Clonazepam	2 mg	30	30	Respondent
6	02-25-2015	Alprazolam	1 mg	60	30	Respondent
7	02-26-2015	Oxycodone	30 mg	120	30	Other
8	02-26-2015	Oxycodone	15 mg	120	20	Other
9	03-16-2015	Oxycodone	15 mg	120	20	Other
10	03-16-2015	Oxycodone	30 mg	120	20	Other
11	03-17-2015	Oxycodone	15 mg	166	7	Respondent
12	03-19-2015	Testosterone-P	Unknown	10	30	Other
13	03-19-2015	Testosterone-M	Unknown	10	30	Other
14	03-23-2015	Clonazepam	2 mg	30	30	Respondent
15	03-24-2015	Alprazolam	1 mg	60	30	Respondent
16	03-24-2015	Oxycodone	15 mg	166	7	Respondent
17	03-25-2015	Carisoprodol	350 mg	90	30	Other
18	03-26-2015	Diazepam	10 mg	90	30	Other
19	03-31-2015	Oxycodone	15 mg	166	7	Respondent
20	04-03-2015	Oxycodone	15 mg	70	12	Other
21	04-03-2015	Oxycodone	30 mg	70	12	Other
22	04-07-2015	Carisoprodol	350 mg	90	30	Other
23	04-07-2015	Oxycodone	15 mg	166	7	Respondent
24	04-14-2015	Oxycodone	15 mg	166	30	Respondent
25	04-14-2015	Oxycodone	15 mg	166	7	Respondent
26	04-21-2015	Oxycodone	15 mg	166	7	Respondent
27	04-21-2015	Oxycodone	15 mg	166	7	Respondent
28						

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	04-21-2015	Clonazepam	2 mg	30	30	Respondent
2	04-21-2015	Alprazolam	1 mg	60	30	Respondent
3	04-21-2015	Oxycodone	15 mg	166	7	Respondent
4	04-27-2015	Testosterone-P	Unknown	10	12	Other
5	04-27-2015	Testosterone-M	Unknown	10	12	Other
6	04-28-2015	Oxycodone	15 mg	166	7	Respondent
7	04-28-2015	Oxycodone	15 mg	166	7	Respondent
8	05-12-2015	Oxycodone	15 mg	166	7	Respondent
9	05-18-2015	Alprazolam	1 mg	60	30	Respondent
10	05-19-2015	Oxycodone	15 mg	166	7	Respondent
11	05-19-2015	Clonazepam	2 mg	30	30	Respondent
12	05-19-2015	Oxycodone	15 mg	166	7	Respondent
13	05-26-2015	Oxycodone	15 mg	166	7	Respondent
14	06-02-2015	Carisoprodol	350 mg	90	30	Respondent
15	06-02-2015	Oxycodone	15 mg	166	7	Respondent
16	06-09-2015	Oxycodone	15 mg	166	7	Respondent
17	06-15-2015	Oxycodone	15 mg	166	7	Respondent
18	06-17-2015	Alprazolam	1 mg	60	30	Respondent
19	06-17-2015	Clonazepam	2 mg	30	30	Respondent
20	06-22-2015	Oxycodone	15 mg	166	7	Respondent
21	06-23-2015	Oxycodone	15 mg	166	7	Respondent
22	06-29-2015	Oxycodone	15 mg	166	7	Respondent
23	06-29-2015	Carisoprodol	350 mg	90	30	Respondent
24	06-30-2015	Oxycodone	15 mg	166	7	Respondent
25	07-06-2015	Oxycodone	15 mg	166	7	Respondent
26	07-07-2015	Oxycodone	15 mg	166	7	Respondent
27						
28						

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	07-13-2015	Clonazepam	2 mg	30	30	Respondent
2	07-13-2015	Oxycodone	15 mg	166	7	Respondent
3	07-13-2015	Alprazolam	1 mg	60	30	Respondent
4	07-20-2015	Oxycodone	15 mg	166	7	Respondent
5	07-27-2015	Carisoprodol	350 mg	90	30	Respondent
6	07-27-2015	Oxycodone	15 mg	166	7	Respondent
7	08-03-2015	Oxycodone	15 mg	166	7	Respondent
8	08-03-2015	Oxycodone	15 mg	166	7	Respondent
9	08-10-2015	Alprazolam	1 mg	60	30	Respondent
10	08-10-2015	Clonazepam	2 mg	30	30	Respondent
11	08-10-2015	Oxycodone	15 mg	166	7	Respondent
12	08-10-2015	Oxycodone	15 mg	332	7	Respondent
13	08-21-2015	Carisoprodol	350 mg	90	30	Respondent
14	08-24-2015	Oxycodone	15 mg	166	7	Respondent
15	08-31-2015	Oxycodone	15 mg	166	7	Respondent
16	09-01-2015	Testosterone-P	Unknown	10	12	Other
17	09-01-2015	Testosterone-M	Unknown	10	12	Other
18	09-03-2015	Oxycodone	15 mg	166	7	Dr. A.P.
19	09-08-2015	Clonazepam	2 mg	30	30	Respondent
20	09-08-2015	Alprazolam	1 mg	60	30	Respondent
21	09-08-2015	Oxycodone	15 mg	166	7	Respondent
22	09-14-2015	Oxycodone	15 mg	166	7	Respondent
23	09-14-2015	Oxycodone	15 mg	166	7	Respondent
24	09-16-2015	Carisoprodol	350 mg	90	30	Respondent
25	09-18-2015	Codeine Syrup	10 mg/5 ml to 100 mg/5 ml	240	4	Dr. D.B.
26	09-21-2015	Oxycodone	15 mg	166	7	Respondent
27						
28						

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	09-21-2015	Oxycodone	15 mg	166	7	Respondent
2	09-28-2015	Oxycodone	15 mg	166	7	Respondent
3	10-05-2015	Clonazepam	2 mg	30	30	Respondent
4	10-05-2015	Oxycodone	15 mg	166	7	Respondent
5	10-05-2015	Alprazolam	1 mg	60	30	Respondent
6	10-12-2015	Carisoprodol	350 mg	90	30	Respondent
7	10-12-2015	Oxycodone	15 mg	166	7	Respondent
8	10-19-2015	Oxycodone	15 mg	166	7	Respondent
9	10-19-2015	Oxycodone	15 mg	166	7	Respondent
10	10-26-2015	Oxycodone	15 mg	166	7	Respondent
11	10-26-2015	Oxycodone	15 mg	166	21	Respondent
12	11-02-2015	Clonazepam	2 mg	30	30	Respondent
13	11-02-2015	Oxycodone	15 mg	166	7	Respondent
14	11-02-2015	Alprazolam	1 mg	60	30	Respondent
15	11-02-2015	Oxycodone	15 mg	166	7	Respondent
16	11-05-2015	Testosterone-M	Unknown	10	70	Other
17	11-05-2015	Testosterone-P	Unknown	10	70	Other
18	11-09-2015	Carisoprodol	350 mg	90	30	Respondent
19	11-09-2015	Oxycodone	15 mg	166	7	Respondent
20	11-09-2015	Oxycodone	15 mg	166	7	Respondent
21	11-16-2015	Oxycodone	15 mg	166	7	Respondent
22	11-23-2015	Oxycodone	15 mg	166	7	Respondent
23	11-25-2015	Oxycodone	15 mg	166	7	Respondent
24	11-25-2015	Alprazolam	1 mg	60	30	Respondent
25	11-30-2015	Clonazepam	2 mg	30	30	Respondent
26	12-04-2015	Carisoprodol	350 mg	90	30	Respondent
27						
28						

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	12-04-2015	Oxycodone	15 mg	166	7	Respondent
2	12-07-2015	Oxycodone	15 mg	166	7	Respondent
3	12-22-2015	Alprazolam	1 mg	60	30	Respondent
4	12-29-2015	Clonazepam	2 mg	30	30	Respondent

6           30. During the period of on or about January 1, 2016, to December 31, 2016, respondent  
 7 had two (3) office visits with patient C. According to respondent's progress notes, the visits took  
 8 place on February 25 and August 24, 2016. Patient C's problems during this time generally  
 9 included, but were not limited to, hypogonadism, hypothyroidism, GERD, low back pain, and  
 10 opioid dependence. On January 21, 2016, respondent authorized an early refill of oxycodone 15  
 11 mg (#166). During March and April 2016, patient C was also filling prescriptions for opiates  
 12 written by Dr. S.B., a bariatric surgeon, that respondent stated was related to post-surgical pain  
 13 after patient C's gastric sleeve was converted to a gastric bypass to address acid reflux.<sup>39</sup> As a  
 14 result, patient C received an additional 990 tablets of opiates (oxycodone, oxycodone/APAP, or  
 15 morphine sulfate) and an additional 120 tablets of diazepam from what was already being  
 16 prescribed by respondent, further increasing the risk of harm to patient C. On July 22, 2016,  
 17 patient C signed a Pain Management Agreement.<sup>40</sup> On September 29, 2016, patient C asked for

18           <sup>39</sup> During his interview before a HQIU investigator, respondent was asked if he was aware  
 19 of the number of prescriptions, primarily for opiates, that were being written by Dr. S.B., a  
 20 bariatric surgeon. Respondent indicated that he was aware because patient C had allegedly told  
 21 him that Dr. S.B. had prescribed some medications for post-operative pain. However, respondent  
 22 was not aware "to the degree of the number of refills" because, in part, he was not using CURES  
 23 on a regular basis until 2017.

24           <sup>40</sup> Respondent's use of pain management agreements for patients C and D in response to  
 25 their aberrant drug behavior was an ineffective use of the pain management agreements, which  
 26 should be used as soon as possible when a physician is prescribing controlled substances on a  
 27 regular basis. One of the purposes of a pain management agreement is to prevent aberrant drug  
 28 behavior before it occurs. Pain management agreements are also ineffective if a physician does  
 not take active steps to monitor a patient's use of controlled substances through periodic reviews  
 of CURES, pill counting, toxicology screens, etc., to determine if the patient is complying with  
 the terms and conditions of the pain management agreement. The pain management agreement  
 for patient C provided, among other things, that patient C would not use any illegal drugs, would  
 not sell or trade his medications, would not try to obtain opioids, stimulants or anxiety  
 medications from another doctor, would safeguard his medicine, refills would only be made  
 during regular office hours, he would only get his prescriptions filled at Hillcrest or 24 [Hour]  
 Rite-Aid, would submit to blood or urine testing to ensure compliance with the agreement, would  
 (continued...)

1 an early refill. When asked why he needed an early refill, patient C replied he had been taking  
2 "about 6 more tabs a day" than originally prescribed, which would have pushed his total up to 30  
3 tabs of oxycodone 15 mg per day (450 mg/day which equates to a MED of 675 mg/day). When  
4 M.G. from respondent's office followed up with patient C on September 30, 2016, to discuss his  
5 request for an early refill, his speech was slurred,<sup>41</sup> he was difficult to understand, and he was  
6 agitated about his refill request not being granted, as had been done in the past. M.G. wrote a  
7 detailed and lengthy account of her conversation with patient C that was electronically signed by  
8 respondent on October 10, 2016. According to the CURES report for patient C, the following  
9 prescriptions for controlled substances were filled for patient C during 2016:

Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
01-04-2016	Carisoprodol	350 mg	90	30	Respondent
01-15-2016	Oxycodone	15 mg	166	7	Respondent
01-21-2016	Oxycodone	15 mg	21	2	Respondent
01-22-2016	Oxycodone	15 mg	166	7	Respondent
01-22-2016	Oxycodone	15 mg	166	7	Respondent
01-23-2016	Alprazolam	1 mg	60	30	Respondent
01-27-2016	Clonazepam	2 mg	30	30	Respondent
01-29-2016	Oxycodone	15 mg	166	7	Respondent

20 (...continued)

21 not take medicine "at a rate greater than the prescribed rate," would bring all medications to the  
22 office, and could comply with any recommendations made in a pain management program. The  
copy of patient C's pain management agreement in the certified medical records is signed by  
patient C, but not by respondent.

23 <sup>41</sup> At one point during his interview before a HQIU investigator, respondent was asked  
24 "[w]ell, now, as you sit here today, and [the district medical consultant] has gone over the list of  
25 opioids, that was being prescribed by another physician concurrently, with your prescribing, is  
that of concern to you?" Respondent replied, in pertinent part, that "it is a concern...I am using  
26 the CURES on a regular basis since 2017. And during the conversations with [patient C] seeing  
him in the office I never again got the sense he was having adverse health effects. He wasn't  
27 slurring his speech. He wasn't ataxic. He was alert and oriented." But, in truth and fact, patient  
C had slurred speech, was difficult to understand, and was agitated about not getting a refill on  
September 30, 2018, as documented by M.G. on the same date, and electronically signed and  
acknowledged by respondent on October 10, 2016.

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	02-01-2016	Carisoprodol	350 mg	90	30	Respondent
2	02-05-2016	Oxycodone	15 mg	166	7	Respondent
3	02-12-2016	Oxycodone	15 mg	166	7	Respondent
4	02-18-2016	Oxycodone	15 mg	168	7	Respondent
5	02-22-2016	Alprazolam	1 mg	60	30	Respondent
6	02-25-2016	Clonazepam	2 mg	30	30	Respondent
7	02-25-2016	Oxycodone	15 mg	168	7	Respondent
8	02-26-2016	Carisoprodol	350 mg	90	30	Respondent
9	02-29-2016	Triazolam	.25 mg	10	7	Other
10	03-01-2016	Oxycodone/APAP	10/325 mg	30	5	S.B.
11	03-03-2016	Oxycodone	15 mg	168	7	Respondent
12	03-04-2016	Oxycodone	15 mg	90	30	S.B.
13	03-04-2016	Diazepam	10 mg	60	30	S.B.
14	03-04-2016	Oxycodone	30 mg	90	30	S.B.
15	03-05-2016	Morphine Sulfate <sup>42</sup>	30 mg	30	10	S.B.
16	03-05-2016	Morphine Sulfate	15 mg	30	30	S.B.
17	03-08-2016	Testosterone-M	Unknown	10	70	Other
18	03-08-2016	Testosterone-P	Unknown	10	70	Other
19	03-10-2016	Oxycodone	15 mg	168	7	Respondent
20	03-11-2016	Oxycodone	15 mg	90	11	S.B.

<sup>42</sup> Morphine sulfate (MS Contin®), an opioid analgesic, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (e), and a dangerous drug pursuant to Business and Professions Code section 4022. When properly prescribed and indicated, it is used for the management of pain that is severe enough to require daily, around-the-clock, long-term opioid treatment and for which alternative treatment options are inadequate. The DEA has identified oxycodone, as a drug of abuse. (Drugs of Abuse, A DEA Resource Guide (2011 Edition), at p. 39.) The Federal Drug Administration has issued a black box warning for MS Contin® which warns about, among other things, addiction, abuse and misuse, and the possibility of life-threatening respiratory distress. The warning also cautions about the risks associated with concomitant use of MS Contin® with benzodiazepines or other central nervous system (CNS) depressants.

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	03-11-2016	Morphine Sulfate	30 mg	30	10	S.B.
2	03-11-2016	Oxycodone	30 mg	90	11	S.B.
3	03-17-2016	Oxycodone	15 mg	168	7	Respondent
4	03-21-2016	Morphine Sulfate	30 mg	90	30	S.B.
5	03-21-2016	Oxycodone	30 mg	90	11	S.B.
6	03-21-2016	Oxycodone	15 mg	90	11	S.B.
7	03-21-2016	Alprazolam	1 mg	60	30	Respondent
8	03-22-2016	Clonazepam	2 mg	30	30	Respondent
9	03-22-2016	Carisoprodol	350 mg	90	30	Respondent
10	03-24-2016	Oxycodone	15 mg	168	7	Respondent
11	03-30-2016	Oxycodone	30 mg	90	11	S.B.
12	03-30-2016	Oxycodone	15 mg	90	11	S.B.
13	03-31-2016	Oxycodone	15 mg	168	7	Respondent
14	04-01-2016	Morphine Sulfate	10 mg	60	30	S.B.
15	04-02-2016	Diazepam	10 mg	60	30	S.B.
16	04-07-2016	Oxycodone	15 mg	168	7	Respondent
17	04-13-2016	Oxycodone	15 mg	168	7	Respondent
18	04-20-2016	Oxycodone	15 mg	168	7	Respondent
19	04-20-2016	Clonazepam	2 mg	30	30	Respondent
20	04-21-2016	Carisoprodol	350 mg	90	30	Respondent
21	04-21-2016	Alprazolam	1 mg	60	30	Respondent
22	04-27-2016	Oxycodone	15 mg	168	7	Respondent
23	05-04-2016	Oxycodone	15 mg	168	7	Respondent
24	05-11-2016	Oxycodone	15 mg	168	7	Respondent
25	05-18-2016	Oxycodone	15 mg	168	7	Respondent
26	05-18-2016	Clonazepam	2 mg	30	30	Respondent
27						
28						

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	05-18-2016	Alprazolam	1 mg	60	30	Respondent
2	05-18-2016	Carisoprodol	350 mg	90	30	Respondent
3	05-18-2016	Oxycodone	15 mg	168	7	Respondent
4	05-25-2016	Oxycodone	15 mg	168	7	Respondent
5	06-01-2016	Testosterone-M	Unknown	10	70	Other
6	06-01-2016	Testosterone-P	Unknown	10	70	Other
7	06-01-2016	Oxycodone	15 mg	168	7	Respondent
8	06-07-2016	Oxycodone	15 mg	168	7	Dr. H.W.
9	06-14-2016	Carisoprodol	350 mg	90	30	Respondent
10	06-14-2016	Oxycodone	15 mg	168	7	Respondent
11	06-14-2016	Clonazepam	2 mg	30	30	Respondent
12	06-14-2016	Alprazolam	1 mg	60	30	Respondent
13	06-21-2016	Oxycodone	15 mg	168	7	Respondent
14	06-28-2016	Oxycodone	15 mg	168	7	Respondent
15	07-05-2016	Oxycodone	15 mg	168	7	Respondent
16	07-11-2016	Carisoprodol	350 mg	90	30	Respondent
17	07-11-2016	Oxycodone	15 mg	336	14	Respondent
18	07-11-2016	Clonazepam	2 mg	30	30	Respondent
19	07-11-2016	Alprazolam	1 mg	60	30	Respondent
20	08-01-2016	Oxycodone	15 mg	168	7	Respondent
21	08-08-2016	Carisoprodol	350 mg	90	30	Respondent
22	08-08-2016	Alprazolam	1 mg	60	30	Respondent
23	08-08-2016	Clonazepam	2 mg	30	30	Respondent
24	08-08-2016	Oxycodone	15 mg	168	7	Respondent
25	08-12-2016	Testosterone-M	Unknown	10	70	Other
26	08-12-2016	Testosterone-P	Unknown	10	70	Other

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	08-12-2016	Oxycodone	15 mg	168	7	Respondent
2	08-17-2016	Clonazepam	2 mg	30	30	Respondent
3	08-17-2016	Alprazolam	1 mg	60	30	Respondent
4	08-17-2016	Carisoprodol	350 mg	90	30	Respondent
5	08-22-2016	Oxycodone	15 mg	168	7	Respondent
6	08-29-2016	Oxycodone	15 mg	168	7	Respondent
7	09-02-2016	Oxycodone	15 mg	168	7	Respondent
8	09-12-2016	Oxycodone	15 mg	168	7	Respondent
9	09-14-2016	Clonazepam	2 mg	30	30	Respondent
10	09-14-2016	Alprazolam	1 mg	60	30	Respondent
11	09-14-2016	Carisoprodol	350 mg	90	30	Respondent
12	09-19-2016	Oxycodone	15 mg	168	7	Respondent
13	09-19-2016	Oxycodone	15 mg	168	7	Respondent
14	10-03-2016	Oxycodone	15 mg	168	7	Respondent
15	10-07-2016	Oxycodone	15 mg	168	7	Dr. A.P.
16	10-10-2016	Alprazolam	1 mg	60	30	Respondent
17	10-10-2016	Carisoprodol	350 mg	90	30	Respondent
18	10-11-2016	Clonazepam	2 mg	30	30	Respondent
19	10-17-2016	Testosterone-M	Unknown	10	70	Other
20	10-17-2016	Testosterone-P	Unknown	10	70	Other
21	10-17-2016	Oxycodone	15 mg	168	7	Respondent
22	10-24-2016	Oxycodone	15 mg	168	7	Respondent
23	10-31-2016	Oxycodone	15 mg	168	7	Respondent
24	11-07-2016	Alprazolam	1 mg	60	30	Respondent
25	11-07-2016	Carisoprodol	350 mg	90	30	Respondent
26	11-07-2016	Clonazepam	2 mg	30	30	Respondent
27						
28						

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	11-07-2016	Oxycodone	15 mg	168	7	Respondent
2	11-14-2016	Oxycodone	15 mg	168	7	Respondent
3	11-21-2016	Oxycodone	15 mg	168	7	Respondent
4	11-22-2016	Oxycodone/APAP	5/325 mg	20	2	Other
5	11-28-2016	Oxycodone	15 mg	168	7	Respondent
6	12-02-2016	Alprazolam	1 mg	60	30	Respondent
7	12-02-2016	Carisoprodol	350 mg	90	30	Respondent
8	12-02-2016	Clonazepam	2 mg	30	30	Respondent
9	12-05-2016	Oxycodone	15 mg	168	7	Respondent
10	12-12-2016	Oxycodone	15 mg	168	7	Respondent
11	12-19-2016	Oxycodone	15 mg	168	7	Respondent
12	12-23-2016	Oxycodone	15 mg	168	7	Respondent
13	12-29-2016	Alprazolam	1 mg	60	30	Respondent
14	12-29-2016	Carisoprodol	350 mg	90	30	Respondent
15	12-29-2016	Clonazepam	2 mg	30	30	Respondent
16	12-30-2016	Oxycodone	15 mg	168	7	Respondent
17						

18  
19        31. Throughout his course of treatment of patient C, respondent failed to adequately  
20 respond to several warning signs indicating misuse, abuse and/or diversion of controlled  
21 substances and did not take adequate risk screening measures to prevent the misuse, abuse and/or  
22 the diversion of the controlled substances that he was prescribing. These warning signs included,  
23 but were not limited to, requests for early refills, drug intoxication, excessive use of controlled  
24 substances, a pharmacist voicing concerns over the controlled substances being prescribed to  
25 patient C, and obtaining controlled substances from multiple prescribers and pharmacies.

26        ////

27        ////

28        ////

1           32. Respondent committed gross negligence in his care and treatment of patient C which  
2 included, but was not limited to, the following:

- 3           (a) Respondent failed to properly evaluate and manage patient C's chronic  
4           nonmalignant pain;
- 5           (b) Respondent repeatedly prescribed controlled substances, primarily  
6           opioids, to treat patient C's chronic nonmalignant pain without, among  
7           other things, sufficiently documenting the effect of patient C's pain on his  
8           function and quality of life, without following a rational treatment plan  
9           with measurable stated objectives including, but not limited to, pain level  
10          and function, and without adjusting treatment pursuant to a rationale and  
11          clearly documented treatment plan;
- 12          (c) Respondent repeatedly prescribed controlled substances, primarily  
13          benzodiazepines, to treat patient C's anxiety without, among other things,  
14          a sufficient and clearly documented history, physical examination and/or  
15          rationale treatment plan;
- 16          (d) Respondent repeatedly prescribed various controlled substances including,  
17          but not limited to, opioids, benzodiazepines, and/or other CNS  
18          depressants, without providing and documenting adequate informed  
19          consent;
- 20          (e) Respondent repeatedly prescribed controlled substances including, but not  
21          limited to, opioids, benzodiazepines, and/or other CNS depressants,  
22          without being cognizant of aberrant drug behavior and without timely and  
23          adequate risk screening measures to address aberrant drug behavior  
24          including, but not limited to, effectively using pain management  
25          agreements in a non-reactive manner, periodically reviewing CURES,  
26          obtaining information from pharmacies, utilizing pill counts, and/or  
27          properly coordinating care with other physicians and prescribers;

28          ////

- (f) Respondent repeatedly increased the risk of harm to patient C, though his concurrent prescribing of opioids, benzodiazepines, carisoprodol (Soma), and/or other CNS depressants; and
  - (g) Respondent excessively prescribed various controlled substances including, but not limited to, opiates, benzodiazepines, and/or other CNS depressants.

## PATIENT D

8       33. According to respondent, he had treated Patient D, since approximately 1992. During  
9 the period of on or about January 1, 2013, to December 31, 2013, respondent had eleven (11)  
10 office visits with patient D, a then-71- year old male. According to respondent's progress notes,  
11 the visits took place on January 7, February 5, March 12, May 28 (chief complaint of "follow up  
12 from fall" after taking "a second 5 mg zolpidem tablet" with assessment of "frequent falls" with  
13 patient "advised not to increase his norco dosing given his frequent falls"), June 24, August 23,  
14 September 19, October 10, November 7, November 18, and December 31, 2017. Patient D's  
15 problems during this time generally included, but were not limited to, rotator cuff repair,  
16 hypertension, edema and pain associated shoulder surgeries on January 24 (right rotator cuff  
17 repair) and October 17, 2013 (right shoulder reversal). On June 14, 2013, respondent entered a  
18 "chronic care update" indicating "[n]otice sent to Dr. [A's] office to avoid filling pain  
19 medications unless managing post op pain or on emergency basis when this office cannot be  
20 reached." According to opiate medications listed on respondent's "current meds" list of  
21 December 31, 2013, patient D's MED at the end of 2013 was at least 184 mg/day.<sup>43</sup> A pain  
22 management agreement<sup>44</sup> was executed by respondent and patient D on June 24, 2013. During

<sup>43</sup> This computation is based on 120 mg of hydrocodone/APAP per day and 16 mg of hydromorphone per day. This computation does not include opiates that were being prescribed by other health care practitioners.

54

1       2013, patient D had his prescriptions filled at approximately seven (7) different pharmacies.  
2       According to the CURES report for patient D, the following prescriptions for controlled  
3       substances were filled for patient D during 2013:

Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
01-08-2013	Temazepam	15 mg	30	30	Respondent
01-16-2013	Hydrocodone/APAP	10/325 mg	60	5	Other
01-16-2013	Zolpidem Tartrate	5 mg	60	30	Respondent
01-16-2013	Oxycodone/APAP	10/325 mg	60	5	Other
01-16-2013	Temazepam	15 mg	30	30	Respondent
01-18-2013	Temazepam	15 mg	60	30	Respondent
01-20-2013	Hydrocodone/APAP	10/325 mg	240	20	Respondent
01-28-2013	Oxycodone/APAP	10/325 mg	80	13	Other
02-05-2013	Oxycodone/APAP	10/325 mg	80	7	Other
02-05-2013	Hydrocodone/APAP	10/325 mg	240	30	Respondent
02-12-2013	Oxycodone/APAP	10/325 mg	80	7	Other
02-19-2013	Oxycodone/APAP	10/325 mg	80	6	Other
03-02-2013	Temazepam	15 mg	60	30	Respondent
03-04-2013	Hydrocodone/APAP	10/325 mg	240	30	Respondent
03-13-2013	Zolpidem Tartrate	5 mg	60	30	Respondent
03-29-2013	Hydrocodone/APAP	10/325 mg	20	5	Other
03-30-2013	Hydrocodone/APAP	10/325 mg	240	30	Respondent
03-30-2013	Temazepam	15 mg	60	30	Respondent
04-10-2013	Zolpidem Tartrate	5 mg	60	30	Respondent
04-25-2013	Hydrocodone/APAP	10/325 mg	240	30	Respondent

26       (...continued)

27       rate," would bring all medications to the office, and could comply with any recommendations  
28       made in a pain management program.

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	05-06-2013	Temazepam	15 mg	60	60	Respondent
2	05-11-2013	Zolpidem Tartrate	5 mg	60	30	Respondent
3	05-22-2013	Hydrocodone/APAP	5/500 mg	20	3	Other
4	05-23-2013	Hydrocodone/APAP	7.5/325 mg	120	15	Respondent
5	05-28-2013	Hydrocodone/APAP	7.5/325 mg	120	15	Respondent
6	06-04-2013	Hydrocodone/APAP	10/325 mg	80	13	Other
7	06-11-2013	Temazepam	15 mg	60	30	Respondent
8	06-24-2013	Hydrocodone/APAP	10/325 mg	240	30	Respondent
9	07-16-2013	Temazepam	15 mg	60	30	Respondent
10	07-21-2013	Hydrocodone/APAP	10/325 mg	240	30	Respondent
11	07-31-2013	Zolpidem Tartrate	10 mg	30	30	Other
12	07-31-2013	Oxycodone/APAP	10/325 mg	19	4	Other
13	08-18-2013	Hydrocodone/APAP	10/325 mg	240	30	Respondent
14	08-24-2013	Oxycodone /APAP	7.5/325 mg	240	30	Respondent
15	09-15-2013	Hydrocodone/APAP	10/325 mg	240	30	Respondent
16	09-19-2013	Oxycodone/APAP	10/325 mg	120	15	Respondent
17	10-03-2013	Oxycodone/APAP	10/325 mg	120	15	Respondent
18	10-15-2013	Hydrocodone/APAP	10/325 mg	240	30	Respondent
19	10-16-2013	Oxycodone/APAP	10/325 mg	120	15	Respondent
20	10-21-2013	Hydromorphone	2 mg	80	10	Other
21	10-24-2013	Hydromorphone	4 mg	90	15	Other
22	10-31-2013	Oxycodone/APAP	10/325 mg	120	15	Respondent
23	11-06-2013	Hydrocodone/APAP	10/325 mg	90	7	Respondent
24	11-06-2013	Hydromorphone	2 mg	120	15	Respondent
25	11-18-2013	Hydromorphone	2 mg	120	15	Respondent
26	11-19-2013	Hydrocodone/APAP	10/325 mg	240	26	Respondent
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	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	12-02-2013	Hydromorphone	2 mg	60	7	Dr. H.W.
2	12-08-2013	Hydromorphone	2 mg	60	7	Dr. H.W.
3	12-13-2013	Hydrocodone/APAP	10/325 mg	240	20	Respondent
4	12-17-2013	Hydromorphone	2 mg	60	7	Respondent
5	12-22-2013	Hydromorphone	2 mg	120	15	Respondent
6	12-31-2013	Morphine Sulfate	15 mg	90	3	Respondent

8           34. During the period of on or about January 1, 2014, to December 31, 2014, respondent  
 9 had six (6) office visits with patient D. According to respondent's progress notes, the visits took  
 10 place on March 27, April 29, June 16, July 2, August 15 (chief complaint listed as "Recent fall  
 11 caused injury to right side of face" with patient describing fall and then requesting early refill –  
 12 "vacation over-ride" on his Norco with respondent granting "vacation override on norco for pick  
 13 up of 37d [days] time 8/day #296") and November 14, 2014. Patient D's problems during this  
 14 time generally included, but were not limited to, HTN, chest pain (which resolved), shoulder pain,  
 15 opioid dependence, facial abrasion from fall on August 12, chronic recurrent major depressive  
 16 disorder and anxiety. On January 24, 2014, respondent approved an early refill because patient D  
 17 was traveling to Paris in a few days with another vacation over-ride on August 15, 2014. During  
 18 2014, patient D had his prescriptions filled at approximately five (5) different pharmacies, which  
 19 was a violation of the pain management agreement he had signed. At the end of 2014, patient D's  
 20 MED was at least 170 mg/day. According to the CURES report for patient D, the following  
 21 prescriptions for controlled substances were filled for patient D during 2014:

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
22	01-10-2014	Hydrocodone/APAP	10/325 mg	240	20	Respondent
23	01-24-2014	Morphine Sulfate	15 mg	90	20	Respondent
24	02-04-2014	Hydrocodone/APAP	10/325 mg	240	20	Respondent
25	02-18-2014	Hydromorphone	15 mg	90	30	Dr. D.B.
26	03-04-2014	Hydrocodone/APAP	10/325 mg	240	20	Dr. D.B.

	Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
1	03-17-2014	Morphine Sulfate	15 mg	90	30	Respondent
2	03-27-2014	Hydrocodone/APAP	10/325 mg	240	30	Respondent
3	04-15-2014	Morphine Sulfate	15 mg	90	30	Respondent
4	04-23-2014	Hydrocodone/APAP	10/325 mg	240	30	Respondent
5	04-29-2014	Morphine Sulfate	30 mg	90	30	Respondent
6	05-20-2014	Hydrocodone/APAP	10/325 mg	240	20	Respondent
7	05-26-2014	Morphine Sulfate	30 mg	90	30	Respondent
8	06-16-2014	Hydrocodone/APAP	10/325 mg	240	20	Respondent
9	06-20-2014	Morphine Sulfate	30 mg	90	30	Respondent
10	07-08-2014	Hydrocodone/APAP	10/325 mg	240	20	Respondent
11	07-17-2017	Morphine Sulfate	30 mg	90	30	Respondent
12	07-30-2014	Hydrocodone/APAP	10/325 mg	240	20	Respondent
13	08-09-2014	Morphine Sulfate	30 mg	90	30	Respondent
14	08-28-2014	Hydrocodone/APAP	10/325 mg	296	37	Respondent
15	09-04-2014	Morphine Sulfate	30 mg	90	30	Respondent
16	09-26-2014	Hydrocodone/APAP	10/325 mg	240	20	Dr. D.B.
17	09-27-2014	Morphine Sulfate	30 mg	90	30	Dr. D.B.
18	10-24-2014	Hydrocodone/APAP	10/325 mg	240	20	Respondent
19	10-25-2014	Morphine Sulfate	30 mg	90	30	Respondent
20	11-18-2014	Hydrocodone/APAP	10/325 mg	240	20	Respondent
21	11-23-2014	Morphine Sulfate	30 mg	90	30	Respondent
22	12-15-2014	Hydrocodone/APAP	10/325 mg	240	20	Dr. A.P.
23	12-21-2014	Morphine Sulfate	30 mg	90	30	Dr. A.P.
24						
25						

35. During the period of on or about January 1, 2015, to October 30, 2015, respondent had seven (7) office visits with patient D. According to respondent's progress notes, the visits took place on January 8, February 10, March 19, April 28, July 16, September 30 (patient

1 indicating that will be moving to Kentucky with respondent noting "patient may want to attempt  
2 taper pain management after establishing care in Kentucky [-] consider suboxone program vs  
3 taper to hydrocodone alone"), and October 26, 2015 (final visit before patient D left for  
4 Kentucky). Patient D's problems during this time generally included, but were not limited to,  
5 shoulder pain, GERD, HTN, major depressive disorder, chest pain associated with pericarditis,  
6 and opioid dependence. As of the date of respondent's last visit with patient D on October 26,  
7 2015, patient D's MED was approximately 210 mg per day. During 2014, patient D had his  
8 prescriptions filled at approximately five (5) different pharmacies, which was a violation of the  
9 pain management agreement he had signed. According to the CURES report, the following  
10 prescriptions for controlled substances were filled for patient D during 2015:

Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
01-08-2015	Hydrocodone/APAP	10/325 mg	240	20	Respondent
01-29-2015	Oxycodone/APAP	5/325 mg	10	1	Other
02-19-2015	Oxycodone/APAP	5/325 mg	10	10	Other
03-05-2015	Hydrocodone/APAP	10/325 mg	240	20	Respondent
03-11-2015	Morphine Sulfate	30 mg	90	30	Respondent
04-08-2015	Morphine Sulfate	30 mg	90	30	Respondent
04-12-2015	Oxycodone/APAP	5/325 mg	20	5	Other
04-28-2015	Hydrocodone/APAP	10/325 mg	240	20	Respondent
05-05-2015	Morphine Sulfate	30 mg	90	30	Respondent
05-27-2015	Hydrocodone/APAP	10/325 mg	240	20	Respondent
07-16-2015	Hydrocodone/APAP	10/325 mg	240	20	Respondent
07-21-2015	Morphine Sulfate	30 mg	90	30	Respondent
08-13-2015	Hydrocodone/APAP	10/325 mg	240	20	Respondent
08-17-2015	Morphine Sulfate	30 mg	90	30	Respondent
08-27-2015	Hydrocodone/APAP	10/325 mg	240	20	Respondent
08-27-2015	Morphine Sulfate	30 mg	90	30	Respondent

Date Filled	Drug Name	Strength	Quantity	Days	Prescriber
09-30-2015	Hydrocodone/APAP	10/325 mg	240	20	Respondent
09-30-2015	Morphine Sulfate	30 mg	90	30	Respondent
10-26-2015	Hydrocodone/APAP	10/325 mg	240	20	Respondent
10-26-2015	Morphine Sulfate	30 mg	90	30	Respondent
10-30-2015	Morphine Sulfate	30 mg	90	30	Respondent
10-30-2015	Hydrocodone/APAP	10/325 mg	240	20	Respondent

36. Throughout his course of treatment of patient D, respondent failed to adequately respond to several warning signs indicating misuse, abuse and/or diversion of controlled substances and did not take adequate risk screening measures to prevent the misuse, abuse and/or the diversion of the controlled substances that he was prescribing. These warning signs included, but were not limited to, having prescriptions filled at multiple pharmacies, obtaining controlled substances from multiple prescribers, overuse of prescribed drugs, and patient D's history of falls.

37. Respondent committed gross negligence in his care and treatment of patient D which included, but was not limited to, the following:

- (a) Respondent failed to properly evaluate and manage patient D's chronic nonmalignant pain;
- (b) Respondent repeatedly prescribed controlled substances, primarily opioids, to treat patient D's chronic nonmalignant pain without, among other things, sufficiently documenting the effect of patient D's pain on his function and quality of life, without following a rational treatment plan with measurable stated objectives including, but not limited to, pain level and function, and without adjusting treatment pursuant to a rationale and clearly documented treatment plan;
- (c) Respondent repeatedly prescribed controlled substances, primarily benzodiazepines, to treat patient D's anxiety without, among other things, a sufficient and clearly documented history, physical examination and/or

- 1 rationale treatment plan;
- 2 (d) Respondent repeatedly prescribed various controlled substances including,  
3 but not limited to, opioids, benzodiazepines, and/or other CNS  
4 depressants, without providing and documenting adequate informed  
5 consent;
- 6 (i) Respondent repeatedly prescribed controlled substances including, but not  
7 limited to, opioids, benzodiazepines, and/or other CNS depressants,  
8 without being cognizant of aberrant drug behavior and without timely and  
9 adequate risk screening measures to address aberrant drug behavior  
10 including, but not limited to, effectively using pain management  
11 agreements in a non-reactive manner, periodically reviewing CURES,  
12 obtaining information from pharmacies, utilizing pill counts, and/or  
13 properly coordinating care with other physicians and prescribers;
- 14 (f) Respondent excessively prescribed various controlled substances  
15 including, but not limited to, opiates, benzodiazepines and/or other CNS  
16 depressants; and
- 17 (g) Respondent occasionally exceeded the recommended maximum daily  
18 dosage for acetaminophen (APAP).

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Repeated Negligent Acts)**

21 38. Respondent is further subject to disciplinary action under sections 2227 and 2234, as  
22 defined by section 2234, subdivision (c), of the Code, in that he committed repeated negligent  
23 acts in his care and treatment of patients A, B, C, and D, as more particularly alleged in  
24 paragraphs 8 through 37, above, which are hereby incorporated by reference and realleged as if  
25 fully set forth herein.

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1                   **THIRD CAUSE FOR DISCIPLINE**

2                   **(Incompetence)**

3                   39. Respondent is further subject to disciplinary action under sections 2227 and  
4                   2234, as defined by section 2234, subdivision (d), of the Code, in that he has  
5                   demonstrated a lack of knowledge regarding opioids and their safe prescription, along  
6                   with other pharmacological issues, as it pertained to his prescribing of controlled  
7                   substances to patients B, C and D, as more particularly alleged in paragraphs 16 through  
8                   37, above, which are hereby incorporated by reference and realleged as if fully set forth  
9                   herein.

10                  **FOURTH CAUSE FOR DISCIPLINE**

11                  **(Repeated Acts of Clearly Excessive Prescribing)**

12                  40. Respondent is further subject to disciplinary action under sections 2227 and 2234, as  
13                  defined by section 725, of the Code, in that he has committed repeated acts of clearly excessive  
14                  prescribing drugs or treatment to patients A, B, C and D, as determined by the standard of the  
15                  community of physicians, as more particularly alleged in paragraphs 8 through 37, above, which  
16                  are hereby incorporated by reference and realleged as if fully set forth herein.

17                  **FIFTH CAUSE FOR DISCIPLINE**

18                  **(Failure to Maintain Adequate and Accurate Medical Record)**

19                  41. Respondent is further subject to disciplinary action under sections 2227 and  
20                  2234, as defined by section 2266, of the Code, in that he failed to maintain adequate and  
21                  accurate records in his care and treatment of patients A, B, C and D, as more particularly  
22                  alleged in paragraphs 8 through 37, above, which are hereby incorporated by reference  
23                  and realleged as if fully set forth herein.

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## **PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

- 4        1. Revoking or suspending Physician's and Surgeon's Certificate No. G58692, issued to  
5 respondent Frank Gilman, M.D.;

6        2. Revoking, suspending or denying approval of respondent Frank Gilman, M.D.'s  
7 authority to supervise physician assistants and advanced practice nurses;

8        3. Ordering respondent Frank Gilman, M.D., if placed on probation, to pay the Board  
9 the costs of probation monitoring; and

10      4. Taking such other and further action as deemed necessary and proper.

DATED: October 2, 2018

KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
*Complainant*

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